

Commonwealth Budget Summary

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HOUSE BUDGET REPORT
2006 REGULAR SESSION OF THE GENERAL ASSEMBLY
GENERAL FUND BUDGET SUMMARY

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	FY 2004-2005	FY 2005-2006			FY 2006-2007			FY 2007-2008		
	Actual	Branch	House	Difference	Branch	House	Difference	Branch	House	Difference
RESOURCES										
Undesignated Balance	249,475,000	468,879,400	468,879,400		527,915,500	518,512,800	(9,402,700)	285,240,300	376,733,000	91,492,700
Continued Appropriations Reserve										
Branch Regular	26,485,200	41,957,300	41,957,300		20,528,300	23,792,300	3,264,000	14,878,800	15,206,100	327,300
Tobacco Settlement	42,947,500	30,664,100	30,664,100		12,305,200	39,305,200	27,000,000	9,508,700	32,508,700	23,000,000
Budget Reserve Trust	50,764,800	28,764,800	28,764,800		119,015,100	119,015,100		119,015,100	154,015,100	35,000,000
Reserve Subtotal	120,197,500	101,386,200	101,386,200		151,848,600	182,112,600	30,264,000	143,402,600	201,729,900	58,327,300
Revenue										
Consensus Revenue Estimate	7,645,046,000	8,216,200,000	8,216,200,000		8,341,200,000	8,341,200,000		8,675,700,000	8,675,700,000	
Tobacco Settlement	112,242,000	91,300,000	91,300,000		88,800,000	88,800,000		94,000,000	94,000,000	
Revenue Measures					4,430,000	4,430,000		(1,780,000)	(1,780,000)	
Revenue Subtotal	7,757,288,000	8,307,500,000	8,307,500,000		8,434,430,000	8,434,430,000		8,767,920,000	8,767,920,000	
Existing Fund Transfers	154,011,100	211,197,100	211,197,100							
Fund Transfers (HB 380)		59,308,700	57,719,200	(1,589,500)	104,596,800	115,813,700	11,216,900	64,869,500	72,647,500	7,778,000
Other Resources					18,474,800	74,224,300	55,749,500	42,696,000	105,622,400	62,926,400
Reconcile Resources to Controller	500									
TOTAL RESOURCES	8,280,972,100	9,148,271,400	9,146,681,900	(1,589,500)	9,237,265,700	9,325,093,400	87,827,700	9,304,128,400	9,524,652,800	220,524,400
APPROPRIATIONS										
Executive Budget (HB 380)										
Regular Operating	7,288,300,200	7,994,729,800	7,994,729,800		8,409,665,700	8,398,380,000	(11,285,700)	8,798,699,800	8,988,637,900	189,938,100
Mandated Allotments (NGE)	17,275,200	15,000,000	15,000,000							
General Fund Current Year		89,702,200	87,298,200	(2,404,000)						
Other - Dedicated Revenues		28,122,400	28,122,400							
Budget Reserve Trust / Surplus Plan	(22,000,000)	90,250,300	90,250,300			35,000,000	35,000,000		(60,000,000)	(60,000,000)
Phase I Tobacco Settlement	108,800,000	91,300,000	91,300,000		88,800,000	88,800,000		94,000,000	94,000,000	
Return of partial litigation proceeds to GOAP		27,000,000	27,000,000							
Capital	38,325,000	6,140,700	6,140,700		1,200,000	3,030,000	1,830,000	1,400,000	3,050,000	1,650,000
Executive Subtotal	7,430,700,400	8,342,245,400	8,339,841,400	(2,404,000)	8,499,665,700	8,525,210,000	25,544,300	8,894,099,800	9,025,687,900	131,588,100
Continued General Fund	(15,666,100)	14,260,400	10,996,400	(3,264,000)	4,120,700	4,997,400	876,700	3,167,600	5,554,900	2,387,300
Continued Tobacco	12,283,400	18,358,900	(8,641,100)	(27,000,000)	2,796,500	6,796,500	4,000,000	9,508,700	12,508,700	3,000,000
Continued Budget Reserve Trust	22,000,000	(90,250,300)	(90,250,300)			(35,000,000)	(35,000,000)		60,000,000	60,000,000
Total Executive	7,449,317,700	8,284,614,400	8,251,946,400	(32,668,000)	8,506,582,900	8,502,003,900	(4,579,000)	8,906,776,100	9,103,751,500	196,975,400
Legislative Budget (HB 381)										
Regular Operating	40,939,400	41,370,500	41,370,500		46,788,800	46,788,800		50,182,200	50,182,200	
Continued	(271,100)	5,040,700	5,040,700		1,528,800	1,528,800		(240,800)	(240,800)	
Total Legislative	40,668,300	46,411,200	46,411,200		48,317,600	48,317,600		49,941,400	49,941,400	
Judicial Budget (HB 382)										
Regular Operating	220,255,500	232,613,900	232,613,900		268,722,300	245,249,000	(23,473,300)	304,031,600	281,222,000	(22,809,600)
Continued	465,000	2,127,900	2,127,900			2,060,000	2,060,000		3,907,700	3,907,700
Total Judicial	220,720,500	234,741,800	234,741,800		268,722,300	247,309,000	(21,413,300)	304,031,600	285,129,700	(18,901,900)
Special Bills		428,000	10,645,200	10,217,200						
Appropriations Subtotal	7,710,706,500	8,566,195,400	8,543,744,600	(22,450,800)	8,823,622,800	8,797,630,500	(25,992,300)	9,260,749,100	9,438,822,600	178,073,500
Budget Lapse / Savings		(97,688,100)	(97,688,100)		(15,000,000)	(51,000,000)	(36,000,000)	(20,000,000)	(36,000,000)	(16,000,000)
TOTAL APPROPRIATIONS	7,710,706,500	8,468,507,300	8,446,056,500	(22,450,800)	8,808,622,800	8,746,630,500	(61,992,300)	9,240,749,100	9,402,822,600	162,073,500
BALANCE	570,265,600	679,764,100	700,625,400	20,861,300	428,642,900	578,462,900	149,820,000	63,379,300	121,830,200	58,450,900
Continued Appropriations Reserve										
Branch Regular	41,957,300	20,528,300	23,792,300	3,264,000	14,878,800	15,206,100	327,300	11,952,000	5,984,300	(5,967,700)
Tobacco Settlement	30,664,100	12,305,200	39,305,200	27,000,000	9,508,700	32,508,700	23,000,000	20,000,000	20,000,000	
Budget Reserve Trust	28,764,800	119,015,100	119,015,100		119,015,100	154,015,100	35,000,000	119,015,100	94,015,100	(25,000,000)
Total Reserve	101,386,200	151,848,600	182,112,600	30,264,000	143,402,600	201,729,900	58,327,300	130,967,100	119,999,400	(10,967,700)
UNDESIGNATED BALANCE	468,879,400	527,915,500	518,512,800	(9,402,700)	285,240,300	376,733,000	91,492,700	(67,587,800)	1,830,800	69,418,600

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HOUSE BUDGET REPORT
2006 REGULAR SESSION OF THE GENERAL ASSEMBLY
OTHER BUDGETARY RESOURCES

	FY 2005-2006			FY 2006-2007			FY 2007-2008		
TABLE I - OTHER BUDGETARY RESOURCES	Branch	House	Difference	Branch	House	Difference	Branch	House	Difference
<u>Source</u>									
Public Service Commission Adjustment				1,224,800	1,624,800	400,000	2,006,000	2,006,000	
Revenue Collections				4,800,000	4,800,000		9,600,000	9,600,000	
Abandoned Property - Sale of Aged Securities				6,000,000	6,000,000		17,500,000	17,500,000	
Employee Choice Increased Economic Activity				6,450,000		(6,450,000)	13,590,000		(13,590,000)
Economic Development Growth Impact					6,450,000	6,450,000		13,590,000	13,590,000
Revenue Enhancement Initiative					20,349,500	20,349,500		42,926,400	42,926,400
Voluntary Assignment of Non-participating Manufacturers Escrow Funds					35,000,000	35,000,000		20,000,000	20,000,000
Total Other Budgetary Resources				18,474,800	74,224,300	55,749,500	42,696,000	105,622,400	62,926,400

	FY 2005-2006			FY 2006-2007			FY 2007-2008		
TABLE II - REVENUE MEASURES	Branch	House	Difference	Branch	House	Difference	Branch	House	Difference
<u>Source</u>									
Small Business AMC Relief				(3,170,000)	(3,170,000)		(9,680,000)	(9,680,000)	
Continuation of Revenue Measures				7,600,000	7,600,000		7,900,000	7,900,000	
Total Revenue Measures				4,430,000	4,430,000		(1,780,000)	(1,780,000)	

TOTAL TABLES I AND II				22,904,800	78,654,300	55,749,500	40,916,000	103,842,400	62,926,400
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**HOUSE BUDGET REPORT
2006 REGULAR SESSION OF THE GENERAL ASSEMBLY
BUDGET LAPSES AND OTHER SAVINGS**

	FY 2005-2006			FY 2006-2007			FY 2007-2008		
	Branch	House	Difference	Branch	House	Difference	Branch	House	Difference
Budget Lapses									
			-			-			-
Debt Service - Finance	(40,605,400)	(40,605,400)	-			-			-
Debt Service - SFCC	(19,616,000)	(19,616,000)	-			-			-
Double budgeting of local education projects	(4,500,000)	(4,500,000)	-			-			-
Public Service Commission Lapse					(1,000,000)	(1,000,000)		(1,000,000)	(1,000,000)
Total Budget Lapse	<u>(64,721,400)</u>	<u>(64,721,400)</u>	<u>-</u>	<u>-</u>	<u>(1,000,000)</u>	<u>(1,000,000)</u>	<u>-</u>	<u>(1,000,000)</u>	<u>(1,000,000)</u>
Other Savings									
General Fund Base Deductions	(32,966,700)	(32,966,700)	-			-			-
Finance Debt Service surplus bond proceed replacement			-	(15,000,000)	(15,000,000)	-			-
Efficiencies			-		(35,000,000)	(35,000,000)	(20,000,000)	(35,000,000)	(15,000,000)
Total Other Savings	<u>(32,966,700)</u>	<u>(32,966,700)</u>	<u>-</u>	<u>(15,000,000)</u>	<u>(50,000,000)</u>	<u>(35,000,000)</u>	<u>(20,000,000)</u>	<u>(35,000,000)</u>	<u>(15,000,000)</u>
Total Budget Lapse / Savings	<u><u>(97,688,100)</u></u>	<u><u>(97,688,100)</u></u>	<u><u>-</u></u>	<u><u>(15,000,000)</u></u>	<u><u>(51,000,000)</u></u>	<u><u>(36,000,000)</u></u>	<u><u>(20,000,000)</u></u>	<u><u>(36,000,000)</u></u>	<u><u>(16,000,000)</u></u>

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
General Government									
Office of the Governor									
Agency Revenue Fund	5,600	5,600							
Other Special Revenue Fund	25,200	25,200							
Office of State Budget Director									
Agency Revenue Fund	75,400	75,400							
Homeland Security									
Agency Revenue Fund (KRS 65.7631)	351,400		(351,400)						
Department of Veterans' Affairs									
Agency Revenue Fund	1,756,100		(1,756,100)						
Military Affairs									
Agency Revenue Fund	300,000	300,000		400,000	4,900,000	4,500,000	300,000	300,000	
Commission on Women									
Agency Revenue Fund	1,800	1,800							
Governor's Office for Local Development									
Agency Revenue Fund	1,817,800	1,817,800							
Local Government Economic Development Fund									
Multi-County Fund (KRS 42.4588)				7,450,000	7,450,000		7,450,000	8,614,000	1,164,000
Secretary of State									
Agency Revenue Fund	350,000	350,000		900,000	900,000		900,000	900,000	
Attorney General									
Agency Revenue Fund	521,200	521,200							
Treasury									
Agency Revenue Fund	92,900	92,900							
Accountancy									
Agency Revenue Fund (KRS 325.250)	20,000		(20,000)						
Chiropractic Examiners									
Agency Revenue Fund	20,000		(20,000)						

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Dentistry									
Agency Revenue Fund (KRS 313.350(1))	30,000		(30,000)						
Embalmers and Funeral Directors									
Agency Revenue Fund (KRS 316.125 and 316.210)	5,000		(5,000)						
Examiners and Registration of Landscape Architects									
Agency Revenue Fund (KRS 323A.060(2))	5,000		(5,000)						
Examiners of Psychology									
Agency Revenue Fund (KRS 319.131)	50,000		(50,000)						
Licensed Professional Counselors									
Agency Revenue Fund (KRS 335.520(1) and (2))	50,000		(50,000)						
Licensure for Occupational Therapy									
Agency Revenue Fund	25,000		(25,000)						
Licensure for Massage Therapy									
Agency Revenue Fund (KRS 309.356(1))	50,000		(50,000)						
Licensure for Professional Engineers and Land Surveyors									
Agency Revenue Fund (KRS 322.420)	50,000		(50,000)						
Medical Licensure									
Agency Revenue Fund (KRS 311.610)	20,000		(20,000)						
Nursing									
Agency Revenue Fund (KRS 314.161)	50,000		(50,000)						
Pharmacy									
Agency Revenue Fund (KRS 315.195)	20,000		(20,000)						
Podiatry									
Agency Revenue Fund (KRS 311.450(3))	7,000		(7,000)						

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Real Estate Appraisers									
Agency Revenue Fund (KRS 324A.065(4))	10,000		(10,000)						
Real Estate Commission									
Agency Revenue Fund (KRS 324.286 and 324.410)	50,000		(50,000)						
Registration for Professional Geologists									
Agency Revenue Fund (KRS 322A.050)	35,000		(35,000)						
Social Work									
Agency Revenue Fund (KRS 335.140)	20,000		(20,000)						
Veterinary Examiners									
Agency Revenue Fund (KRS 321.320)	45,000		(45,000)						
Emergency Medical Services									
Agency Revenue Fund (KRS 311A.145(2))	82,500	162,500	80,000						
Commerce Cabinet									
Secretary									
Agency Revenue Fund	190,700	190,700							
Artisans Center									
Other Special Revenue Fund	307,100	307,100							
Energy Policy									
Agency Revenue Fund (KRS 132.020(5))	506,300	506,300							
Tourism									
Agency Revenue Fund	204,000	204,000							
Horse Park Commission									
Kentucky Horse Park Fund	40,800	40,800							
State Fair Board									
State Fair Board Fund	234,000	234,000							
Historical Society									
Agency Revenue Fund	120,000	120,000							

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Arts Council									
Agency Revenue Fund (KRS 153.220(8))	20,000	20,000							
Economic Development Cabinet									
Secretary									
Agency Revenue Fund	200,000	200,000							
Financial Incentives									
Kentucky Economic Development Finance Authority (KRS 154.20-010 to 154.20-150)								700,000	700,000
Department of Education									
Operations and Support Services									
Agency Revenue Fund	150,000	150,000							
Department of Education									
School Districts Flexible Spending Account Expendable Trust Fund	7,000,000	7,000,000		12,000,000	12,000,000		12,000,000	12,000,000	
Education Cabinet									
General Administration and Program Support									
Agency Revenue Fund	53,000	53,000		75,000	75,000		89,600	89,600	
Career and Technical Education									
Agency Revenue Fund	656,800	656,800							
Environmental and Public Protection Cabinet									
Natural Resources									
Agency Revenue Fund (KRS 149.280(2) and 149.670)	247,900	247,900							
Public Protection Commissioner									
Agency Revenue Fund	400,000	400,000		175,000	175,000		150,000	150,000	
Petroleum Storage Tank Environmental Assurance Fund									
Insurance Administration Fund (KRS 224.60-140, 224.60-145 and 224.60-150)	626,500	626,500		41,997,300	41,997,300		17,564,100	17,564,100	
Alcoholic Beverage Control									
Agency Revenue Fund (KRS 243.025)	3,011,700	3,011,700		836,200	836,200		457,600	457,600	

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Charitable Gaming									
Agency Revenue Fund (KRS 238.570(2))	1,100,000	1,100,000							
Financial Institutions									
Agency Revenue Fund (KRS 287.485)	3,295,100	3,295,100		1,851,300	1,851,300		1,900,900	1,900,900	
Insurance									
Agency Revenue Fund (KRS 304.2-300, 304.2-400 and 304.2-440)	8,659,700	8,659,700		9,000,000	9,000,000		10,750,000	10,750,000	
Environmental and Public Protection									
Kentucky Pride Trust Fund (KRS 224.43-505(1))				18,000,000	18,000,000				
Kentucky Pride Trust Fund Pursuant to KRS 224.43-505(2)(a)5., these funds transfers to the General Fund support the General Fund debt service on the bonds sold as appropriated by 2003 Ky. Acts ch. 156, Part II, Capital Project Budget, A. Government Operations, 3. Kentucky Infrastructure Authority, c. Kentucky Pride Fund Projects.				2,006,300	2,006,300		2,006,300	2,006,300	
Finance and Administration Cabinet									
General Administration									
Agency Revenue Fund	58,800	58,800			3,779,800	3,779,800		3,784,800	3,784,800
Controller									
Agency Revenue Fund	1,200,000	1,200,000			204,300	204,300		215,800	215,800
Facilities and Support Services									
Agency Revenue Fund	232,500	232,500			200,800	200,800		583,400	583,400
Commonwealth Office of Technology									
Agency Revenue Fund								1,000,000	1,000,000
Revenue									
Agency Revenue Fund (KRS 45.238(3), 132.320(3), 134.400, 160.6154(2) and 365.390(2))	1,000,000	1,000,000							

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Finance and Administration									
Capital Construction and Equipment Purchase Contingency Fund (KRS 45.770)				2,000,000	2,000,000				
Capital Construction Investment Income (KRS 42.500)				5,000,000	6,200,000	1,200,000	5,000,000	5,330,000	330,000
Statewide Deferred Maintenance Fund (KRS 45.782)					332,000	332,000			
Capital Construction Emergency Repair and Maintenance Fund (KRS 45.780)					1,000,000	1,000,000			
Health and Family Services Cabinet									
General Administration and Program Support									
Agency Revenue Fund (KRS 212.025(2))	5,723,000	5,723,000							
Malt Beverage Education Fund	350,000	350,000		350,000	350,000		350,000	350,000	
Children with Special Health Care Needs									
Agency Revenue Fund (KRS 212.025(2))	500	500							
Public Health									
Agency Revenue Fund (KRS 194A.050(4), 211.350(7), 211.848(2), 212.025(2), 213.141(3), 217.125(2), 219.071 and 221.020(2))	4,657,000	4,657,000		542,800	542,800		483,000	483,000	
Health Policy									
Agency Revenue Fund (KRS 212.025(2))	351,700	351,700							
Human Support Services									
Agency Revenue Fund (KRS 212.025(2))	156,500	156,500							
Ombudsman									
Agency Revenue Fund (KRS 212.025(2))	1,600	1,600							

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Disability Determination Services									
Agency Revenue Fund (KRS 212.025(2))	2,400	2,400							
Justice and Public Safety Cabinet									
Justice Administration									
Agency Revenue Fund	109,100	109,100							
Criminal Justice Training									
Kentucky Law Enforcement Foundation Program Fund (KRS 15.430)							2,000,000	2,000,000	
Juvenile Justice									
Agency Revenue Fund	6,520,000	6,520,000							
Community Services and Local Facilities									
Agency Revenue Fund	80,100	80,100							
Public Advocacy									
Agency Revenue Fund (KRS 31.211(8) and 189A.050(3)(f))	162,700	162,700							
Personnel									
General Operations									
Flexible Spending Account (KRS 18A.225(2)(g))	323,000	323,000		1,000,000	1,000,000		1,000,000	1,000,000	
Other Special Revenue Fund	333,300	333,300							
Agency Revenue Fund (KRS 18A.225(2)(g))	922,500	922,500							
Workers' Compensation Benefits and Reserve									
Risk Management Fund (KRS 18A.375(3))	3,028,500	4,028,500	1,000,000						
Postsecondary Education									
Council on Postsecondary Education									
Agency Revenue Fund	300,000	300,000							

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FUND TRANSFERS PART V

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Kentucky Higher Education Assistance Authority									
Osteopathic Medicine Scholarship Trust Fund (KRS 164.7891(11))	390,000	390,000							
Osteopathic Medicine Repayment Fund (KRS 164.7891(11))	440,000	440,000		350,000	350,000				
Kentucky Community and Technical College System									
Firefighters Foundation Program Fund (KRS 95A.220)							2,000,000	2,000,000	
Transportation Cabinet									
Aviation									
Kentucky Aviation Economic Development Fund				468,000	468,000		468,000	468,000	
Notwithstanding KRS 183.525(5), these funds transfers to the General Fund support the General Fund debt service on the bonds sold as appropriated by 2005 Ky. Acts ch. 173, Part II, Capital Projects Budget, C., 1., 002.									
Vehicle Regulation									
Agency Revenue Fund				194,900	194,900				
TOTAL TRANSFERS	59,308,700	57,719,200	(1,589,500)	104,596,800	115,813,700	11,216,900	64,869,500	72,647,500	7,778,000

Governmental Branch: Executive
Cabinet/Function: Transportation

FY 2005-2006			FY 2006-2007			FY 2007-2008		
Branch	House	Difference	Branch	House	Difference	Recommend	House	Difference

Beginning Undesignated Balance	28,578,100	28,578,100	0	1,493,500	1,493,500	0	0	0	0
Revenue Receipts/Estimates	1,169,703,400	1,169,703,400	0	1,223,125,400	1,223,125,400	0	1,239,614,400	1,239,614,400	0
Road Fund Revenue Initiative					559,900			1,317,500	
Spenddown of Continuing Appropriation	(28,578,100)	(28,578,100)							
TOTAL RESOURCES	1,169,703,400	1,169,703,400	0	1,224,618,900	1,225,178,800	0	1,239,614,400	1,240,931,900	0

General Administration & Support	66,530,000	66,530,000	0	69,217,100	69,217,100	0	70,072,400	70,072,400	0
Aviation	0	0	0	0	0	0	0	0	0
Revenue Sharing	240,939,000	240,939,000	0	257,668,000	257,792,100	124,100	252,908,400	253,198,700	290,300
Highways	625,672,600	625,672,600	0	668,521,200	667,781,400	(739,800)	681,006,700	680,861,200	(145,500)
Vehicle Regulation	16,280,300	16,280,300	0	17,396,100	17,396,100	0	18,269,900	18,269,900	0
Debt Service	166,840,900	166,840,900	0	150,238,600	146,414,200	(3,824,400)	159,362,500	155,535,200	(3,827,300)
Capital Budget	4,248,000	4,248,000	0	9,035,000	9,035,000	0	6,795,000	6,795,000	0
TOTAL-TRANSPORTATION	1,120,510,800	1,120,510,800	0	1,172,076,000	1,167,635,900	(4,440,100)	1,188,414,900	1,184,732,400	(3,682,500)

DEPT. OF TREASURY	250,000	250,000	0	250,000	250,000	0	250,000	250,000	0
JUSTICE CABINET									
Kentucky State Police	29,769,100	29,769,100	0	35,000,000	40,000,000	5,000,000	35,000,000	40,000,000	5,000,000
Motor Vehicle Enforcement	12,999,000	12,999,000	0	13,974,900	13,974,900	0	13,881,500	13,881,500	0

Debt Service	2,505,000	2,505,000	0	0	0	0	0	0	0
Department of Administration	283,000	283,000	0	300,000	300,000	0	300,000	300,000	0
Department of Revenue	1,418,000	1,418,000	0	1,418,000	1,768,000	350,000	1,418,000	1,768,000	350,000
Department of Revenue - Capital				1,250,000	1,250,000				
Comm. Office of Technology	125,000	125,000	0	0	0	0	0	0	0
GOV.'S OFF. OF HOMELAND SECURITY	350,000	350,000	0	350,000	0	(350,000)	350,000	0	(350,000)
TOTAL APPROP./EXPENDITURES	1,168,209,900	1,168,209,900	0	1,224,618,900	1,225,178,800	559,900	1,239,614,400	1,240,931,900	1,317,500

UNDESIGNATED BALANCE	1,493,500	1,493,500	0	0	0	0	0	0	0
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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Commonwealth of Kentucky

Operating Budget

Summary Totals

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE									
General Fund (Tobacco)	91,875,900	91,875,900		88,800,000	88,800,000		94,000,000	94,000,000	
General Fund	8,398,183,900	8,422,779,900	24,596,000	8,725,176,800	8,690,417,800	(34,759,000)	9,152,913,600	9,320,042,100	167,128,500
Restricted Funds	4,545,689,300	4,547,365,400	1,676,100	4,868,065,800	4,866,489,200	(1,576,600)	4,741,508,900	4,743,903,100	2,394,200
Federal Funds	7,450,302,700	7,450,302,700		7,188,730,200	7,180,547,100	(8,183,100)	7,351,884,000	7,347,585,600	(4,298,400)
Road Fund	1,192,540,000	1,192,540,000		1,214,333,900	1,214,893,800	559,900	1,232,819,400	1,234,136,900	1,317,500
Highway Bond	462,552,500	462,552,500		75,000,000	75,000,000				
Regular Total Funds	22,141,144,300	22,167,416,400	26,272,100	22,160,106,700	22,116,147,900	(43,958,800)	22,573,125,900	22,739,667,700	166,541,800
Use of Continuing	(50,462,600)	(80,726,600)	(30,264,000)	8,064,000	15,000,700	6,936,700	12,817,500	22,112,500	9,295,000
TOTAL FUNDS	22,090,681,700	22,086,689,800	(3,991,900)	22,168,170,700	22,131,148,600	(37,022,100)	22,585,943,400	22,761,780,200	175,836,800
II. EXPENDITURE CATEGORY									
Personnel Costs	4,862,944,200	4,862,864,200	(80,000)	5,073,403,900	5,054,543,700	(18,860,200)	5,255,367,300	5,246,834,800	(8,532,500)
Operating Expenses	2,279,533,800	2,276,554,800	(2,979,000)	2,408,326,700	2,412,416,000	4,089,300	2,522,548,900	2,563,508,700	40,959,800
Grants, Loans, Benefits	12,366,273,200	12,363,584,200	(2,689,000)	12,497,566,500	12,483,688,500	(13,878,000)	12,925,721,500	13,065,581,300	139,859,800
Debt Service	646,477,600	646,477,600		739,233,200	735,645,800	(3,587,400)	779,770,900	783,488,100	3,717,200
Capital Outlay	178,374,100	178,374,100		175,836,600	172,410,600	(3,426,000)	172,401,100	168,879,100	(3,522,000)
Construction	1,757,078,800	1,758,834,900	1,756,100	1,273,803,800	1,272,444,000	(1,359,800)	930,133,700	933,488,200	3,354,500
TOTAL EXPENDITURES	22,090,681,700	22,086,689,800	(3,991,900)	22,168,170,700	22,131,148,600	(37,022,100)	22,585,943,400	22,761,780,200	175,836,800
III. BASE LEVEL BUDGET BY FUND SOURCE									
General Fund (Tobacco)	91,875,900	91,875,900		88,800,000	84,800,000	(4,000,000)	92,129,900	89,129,900	(3,000,000)
General Fund	8,308,481,700	8,335,481,700	27,000,000	8,260,545,800	8,219,120,100	(41,425,700)	8,275,655,300	8,221,120,200	(54,535,100)
Restricted Funds	4,537,667,400	4,537,065,400	(602,000)	4,345,935,500	4,347,651,100	1,715,600	4,359,808,800	4,361,490,000	1,681,200
Federal Funds	7,175,776,500	7,175,776,500		6,841,289,200	6,822,734,200	(18,555,000)	6,826,725,900	6,808,098,200	(18,627,700)
Road Fund	1,179,734,300	1,179,734,300		1,176,450,100	1,179,950,100	3,500,000	1,184,875,400	1,188,375,400	3,500,000
Highway Bond	462,552,500	462,552,500							
Regular Total Funds	21,756,088,300	21,782,486,300	26,398,000	20,713,020,600	20,654,255,500	(58,765,100)	20,739,195,300	20,668,213,700	(70,981,600)
Use of Continuing	(50,462,600)	(80,726,600)	(30,264,000)	8,064,000	15,000,700	6,936,700	12,817,500	22,112,500	9,295,000
TOTAL BASE LEVEL	21,705,625,700	21,701,759,700	(3,866,000)	20,721,084,600	20,669,256,200	(51,828,400)	20,752,012,800	20,690,326,200	(61,686,600)
IV. ADDITIONAL BUDGET RECAP BY FUND SOURCE									
General Fund (Tobacco)					4,000,000	4,000,000	1,870,100	4,870,100	3,000,000
General Fund	89,702,200	87,298,200	(2,404,000)	464,631,000	471,297,700	6,666,700	877,258,300	1,098,921,900	221,663,600
Restricted Funds	8,021,900	10,300,000	2,278,100	522,130,300	518,838,100	(3,292,200)	381,700,100	382,413,100	713,000
Federal Funds	274,526,200	274,526,200		347,441,000	357,812,900	10,371,900	525,158,100	539,487,400	14,329,300
Road Fund	12,805,700	12,805,700		37,883,800	34,943,700	(2,940,100)	47,944,000	45,761,500	(2,182,500)
Highway Bond				75,000,000	75,000,000				
TOTAL ADDITIONAL	385,056,000	384,930,100	(125,900)	1,447,086,100	1,461,892,400	14,806,300	1,833,930,600	2,071,454,000	237,523,400

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Commonwealth of Kentucky

Capital Budget

Summary Totals

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I. CAPITAL PROJECT RECAP BY FUND SOURCE									
General Fund				1,200,000	3,030,000	1,830,000	1,400,000	3,050,000	1,650,000
Restricted Funds		4,320,000	4,320,000	1,472,110,000	1,619,116,401	147,006,400	38,550,000	56,663,600	18,113,600
Federal Funds				178,982,000	176,082,000	(2,900,000)	16,190,000	22,190,000	6,000,000
Road Fund				10,285,000	10,285,000		6,795,000	6,795,000	
Bond Funds				652,595,000	1,254,731,000	602,136,000	5,000,000		(5,000,000)
Agency Bonds				205,132,000	470,532,000	265,400,000			
Capital Construction Surplus				4,107,000	4,107,000		1,045,000	1,045,000	
Investment Income				12,100,000	10,900,000	(1,200,000)	11,140,000	10,810,000	(330,000)
Other Funds				89,140,000	193,616,000	104,476,000	11,970,000	17,868,000	5,898,000
Deferred Maintenance				332,000		(332,000)			
Emergency Repair Maintenance and Replacement				2,200,000	1,700,000	(500,000)			
TOTAL CAPITAL		4,320,000	4,320,000	2,628,183,001	3,744,099,402	1,115,916,401	92,090,000	118,421,600	26,331,600

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Executive Branch

Operating Budget

Summary Totals

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE									
General Fund (Tobacco)	91,875,900	91,875,900		88,800,000	88,800,000		94,000,000	94,000,000	
General Fund	8,124,110,400	8,148,706,400	24,596,000	8,409,665,700	8,398,380,000	(11,285,700)	8,798,699,800	8,988,637,900	189,938,100
Restricted Funds	4,526,961,700	4,528,637,800	1,676,100	4,848,515,600	4,844,639,000	(3,876,600)	4,721,532,800	4,721,627,000	94,200
Federal Funds	7,447,266,000	7,447,266,000		7,186,960,300	7,178,777,200	(8,183,100)	7,350,452,500	7,346,154,100	(4,298,400)
Road Fund	1,192,540,000	1,192,540,000		1,214,333,900	1,214,893,800	559,900	1,232,819,400	1,234,136,900	1,317,500
Highway Bond	462,552,500	462,552,500		75,000,000	75,000,000				
Regular Total Funds	21,845,306,500	21,871,578,600	26,272,100	21,823,275,500	21,800,490,000	(22,785,500)	22,197,504,500	22,384,555,900	187,051,400
Use of Continuing	(57,631,200)	(87,895,200)	(30,264,000)	6,917,200	11,793,900	4,876,700	12,676,300	18,063,600	5,387,300
TOTAL FUNDS	21,787,675,300	21,783,683,400	(3,991,900)	21,830,192,700	21,812,283,900	(17,908,800)	22,210,180,800	22,402,619,500	192,438,700
II. EXPENDITURE CATEGORY									
Personnel Costs	4,655,099,200	4,655,019,200	(80,000)	4,844,695,200	4,843,263,500	(1,431,700)	5,008,813,900	5,015,828,200	7,014,300
Operating Expenses	2,186,011,700	2,183,032,700	(2,979,000)	2,302,951,700	2,308,675,800	5,724,100	2,398,118,600	2,440,123,500	42,004,900
Grants, Loans, Benefits	12,366,273,200	12,363,584,200	(2,689,000)	12,497,566,500	12,483,688,500	(13,878,000)	12,925,721,500	13,065,581,300	139,859,800
Debt Service	646,477,600	646,477,600		739,233,200	735,645,800	(3,587,400)	779,770,900	783,488,100	3,717,200
Capital Outlay	176,734,800	176,734,800		171,942,300	168,566,300	(3,376,000)	167,622,200	164,110,200	(3,512,000)
Construction	1,757,078,800	1,758,834,900	1,756,100	1,273,803,800	1,272,444,000	(1,359,800)	930,133,700	933,488,200	3,354,500
TOTAL EXPENDITURES	21,787,675,300	21,783,683,400	(3,991,900)	21,830,192,700	21,812,283,900	(17,908,800)	22,210,180,800	22,402,619,500	192,438,700
III. BASE LEVEL BUDGET BY FUND SOURCE									
General Fund (Tobacco)	91,875,900	91,875,900		88,800,000	84,800,000	(4,000,000)	92,129,900	89,129,900	(3,000,000)
General Fund	8,034,408,200	8,061,408,200	27,000,000	7,982,061,000	7,942,695,300	(39,365,700)	7,970,415,200	7,919,787,800	(50,627,400)
Restricted Funds	4,518,939,800	4,518,337,800	(602,000)	4,328,706,300	4,330,421,900	1,715,600	4,343,216,600	4,344,897,800	1,681,200
Federal Funds	7,172,739,800	7,172,739,800		6,839,654,800	6,821,099,800	(18,555,000)	6,825,456,700	6,806,829,000	(18,627,700)
Road Fund	1,179,734,300	1,179,734,300		1,176,450,100	1,179,950,100	3,500,000	1,184,875,400	1,188,375,400	3,500,000
Highway Bond	462,552,500	462,552,500							
Regular Total Funds	21,460,250,500	21,486,648,500	26,398,000	20,415,672,200	20,358,967,100	(56,705,100)	20,416,093,800	20,349,019,900	(67,073,900)
Use of Continuing	(57,631,200)	(87,895,200)	(30,264,000)	6,917,200	11,793,900	4,876,700	12,676,300	18,063,600	5,387,300
TOTAL BASE LEVEL	21,402,619,300	21,398,753,300	(3,866,000)	20,422,589,400	20,370,761,000	(51,828,400)	20,428,770,100	20,367,083,500	(61,686,600)
IV. ADDITIONAL BUDGET RECAP BY FUND SOURCE									
General Fund (Tobacco)					4,000,000	4,000,000	1,870,100	4,870,100	3,000,000
General Fund	89,702,200	87,298,200	(2,404,000)	427,604,700	455,684,700	28,080,000	828,284,600	1,068,850,100	240,565,500
Restricted Funds	8,021,900	10,300,000	2,278,100	519,809,300	514,217,100	(5,592,200)	378,316,200	376,729,200	(1,587,000)
Federal Funds	274,526,200	274,526,200		347,305,500	357,677,400	10,371,900	524,995,800	539,325,100	14,329,300
Road Fund	12,805,700	12,805,700		37,883,800	34,943,700	(2,940,100)	47,944,000	45,761,500	(2,182,500)
Highway Bond				75,000,000	75,000,000				
TOTAL ADDITIONAL	385,056,000	384,930,100	(125,900)	1,407,603,300	1,441,522,900	33,919,600	1,781,410,700	2,035,536,000	254,125,300

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Executive Branch

Capital Budget

Summary Totals

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I. CAPITAL PROJECT RECAP BY FUND SOURCE									
General Fund				1,200,000	3,030,000	1,830,000	1,400,000	3,050,000	1,650,000
Restricted Funds		4,320,000	4,320,000	1,472,110,000	1,619,116,401	147,006,400	38,550,000	56,663,600	18,113,600
Federal Funds				178,982,000	176,082,000	(2,900,000)	16,190,000	22,190,000	6,000,000
Road Fund				10,285,000	10,285,000		6,795,000	6,795,000	
Bond Funds				652,595,000	1,254,731,000	602,136,000	5,000,000		(5,000,000)
Agency Bonds				205,132,000	470,532,000	265,400,000			
Capital Construction Surplus				4,107,000	4,107,000		1,045,000	1,045,000	
Investment Income				12,100,000	10,900,000	(1,200,000)	11,140,000	10,810,000	(330,000)
Other Funds				89,140,000	193,616,000	104,476,000	11,970,000	17,868,000	5,898,000
Deferred Maintenance				332,000		(332,000)			
Emergency Repair Maintenance and Replacement				2,200,000	1,700,000	(500,000)			
TOTAL CAPITAL		4,320,000	4,320,000	2,628,183,001	3,744,099,401	1,115,916,401	92,090,000	118,421,600	26,331,600

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Judicial Branch

Operating Budget

Summary Totals

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE									
General Fund	232,703,000	232,703,000		268,722,300	245,249,000	(23,473,300)	304,031,600	281,222,000	(22,809,600)
Restricted Funds	18,463,000	18,463,000		19,480,600	21,780,600	2,300,000	19,785,100	22,085,100	2,300,000
Federal Funds	3,036,700	3,036,700		1,769,900	1,769,900		1,431,500	1,431,500	
Regular Total Funds	254,202,700	254,202,700		289,972,800	268,799,500	(21,173,300)	325,248,200	304,738,600	(20,509,600)
Use of Continuing	2,127,900	2,127,900			2,060,000	2,060,000		3,907,700	3,907,700
TOTAL FUNDS	256,330,600	256,330,600		289,972,800	270,859,500	(19,113,300)	325,248,200	308,646,300	(16,601,900)

II. EXPENDITURE CATEGORY

Personnel Costs	170,446,000	170,446,000		190,997,700	173,569,200	(17,428,500)	205,285,300	189,738,500	(15,546,800)
Operating Expenses	84,522,800	84,522,800		97,200,800	95,566,000	(1,634,800)	115,474,000	114,428,900	(1,045,100)
Capital Outlay	1,361,800	1,361,800		1,774,300	1,724,300	(50,000)	4,488,900	4,478,900	(10,000)
TOTAL EXPENDITURES	256,330,600	256,330,600		289,972,800	270,859,500	(19,113,300)	325,248,200	308,646,300	(16,601,900)

III. BASE LEVEL BUDGET BY FUND SOURCE

General Fund	232,703,000	232,703,000		231,696,000	229,636,000	(2,060,000)	255,057,900	251,150,200	(3,907,700)
Restricted Funds	18,463,000	18,463,000		17,159,600	17,159,600		16,401,200	16,401,200	
Federal Funds	3,036,700	3,036,700		1,634,400	1,634,400		1,269,200	1,269,200	
Regular Total Funds	254,202,700	254,202,700		250,490,000	248,430,000	(2,060,000)	272,728,300	268,820,600	(3,907,700)
Use of Continuing	2,127,900	2,127,900			2,060,000	2,060,000		3,907,700	3,907,700
TOTAL BASE LEVEL	256,330,600	256,330,600		250,490,000	250,490,000		272,728,300	272,728,300	

IV. ADDITIONAL BUDGET RECAP BY FUND SOURCE

General Fund				37,026,300	15,613,000	(21,413,300)	48,973,700	30,071,800	(18,901,900)
Restricted Funds				2,321,000	4,621,000	2,300,000	3,383,900	5,683,900	2,300,000
Federal Funds				135,500	135,500		162,300	162,300	
TOTAL ADDITIONAL				39,482,800	20,369,500	(19,113,300)	52,519,900	35,918,000	(16,601,900)

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Legislative Branch

Operating Budget

Summary Totals

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I. APPROPRIATIONS SUMMARY BY FUND SOURCE									
General Fund	41,370,500	41,370,500		46,788,800	46,788,800		50,182,200	50,182,200	
Restricted Funds	264,600	264,600		69,600	69,600		191,000	191,000	
Regular Total Funds	41,635,100	41,635,100		46,858,400	46,858,400		50,373,200	50,373,200	
Use of Continuing	5,040,700	5,040,700		1,146,800	1,146,800		141,200	141,200	
TOTAL FUNDS	46,675,800	46,675,800		48,005,200	48,005,200		50,514,400	50,514,400	

II. EXPENDITURE CATEGORY

Personnel Costs	37,399,000	37,399,000		37,711,000	37,711,000		41,268,100	41,268,100	
Operating Expenses	8,999,300	8,999,300		8,174,200	8,174,200		8,956,300	8,956,300	
Capital Outlay	277,500	277,500		2,120,000	2,120,000		290,000	290,000	
TOTAL EXPENDITURES	46,675,800	46,675,800		48,005,200	48,005,200		50,514,400	50,514,400	

III. BASE LEVEL BUDGET BY FUND SOURCE

General Fund	41,370,500	41,370,500		46,788,800	46,788,800		50,182,200	50,182,200	
Restricted Funds	264,600	264,600		69,600	69,600		191,000	191,000	
Regular Total Funds	41,635,100	41,635,100		46,858,400	46,858,400		50,373,200	50,373,200	
Use of Continuing	5,040,700	5,040,700		1,146,800	1,146,800		141,200	141,200	
TOTAL BASE LEVEL	46,675,800	46,675,800		48,005,200	48,005,200		50,514,400	50,514,400	

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HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

FB 2004-06 BOND PROJECT RECORD

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service	
Branch				House				Branch	House	Branch	House
Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL				
Bond Funds	652,595,000	5,000,000	657,595,000		1,254,731,000		1,254,731,000	1,688,000	1,925,000	65,753,000	70,888,000
General Government	113,000,000		113,000,000		338,366,000		338,366,000	1,688,000	1,925,000	9,658,000	17,727,000
Kentucky Infrastructure Authority											
KIA Fund A - Federally Assisted Wastewater Program-Matching Funds	²⁰	4,000,000	4,000,000		4,000,000		4,000,000			376,000 *	188,000
KIA Fund F - Drinking Water Revolving Loan Program-Matching Funds	²⁰	4,000,000	4,000,000		4,000,000		4,000,000			376,000 *	188,000
KIA Water and Sewer Bond Pool				²⁰	75,000,000		75,000,000				3,492,000
KIA Water and Sewer Bond Pool - Coal Producing Counties				²⁰	50,000,000		50,000,000				2,328,000
Military Affairs											
Acquire Land for Wendell H. Ford Training Center				²⁰	4,500,000		4,500,000		211,000		422,000 *
Governors Office for Local Development											
Aviation Museum of Kentucky - Design and Construction				²⁰	606,000		606,000				31,000
Capital Improvements for Actor's Theatre of Louisville				²⁰	900,000		900,000				45,000
City of Covington - West Covington Firestation Land Acquisition				²⁰	300,000		300,000				17,000
City of Providence Sewer Line Expansion				²⁰	950,000		950,000				47,000
City of Winchester Community Center Phase II Construction				²⁰	1,400,000		1,400,000				68,000
Community Ventures In Fayette Co. - Land Acquisition				²⁰	650,000		650,000				33,000
Daviess County Fiscal Court - Renovate Juvenile Dentention Center				²⁰	500,000		500,000		26,000		52,000 *
Fairdale Community Center				²⁰	300,000		300,000				17,000
Farnsley/Moremen Landing and Home Restoration				²⁰	260,000		260,000				15,000
GOLD-Community Economic Grant Program	²⁰	5,000,000	5,000,000							468,000 *	
Jefferson County Center for Women and Families Construction				²⁰	1,000,000		1,000,000				49,000
Lyon County Fiscal Court - Eddyville Sewer & Water Project				²⁰	500,000		500,000				26,000
Lyon County Fiscal Court - Kuttawa Sewer & Water Project				²⁰	500,000		500,000				26,000

* - Denotes Full-year debt service

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service	
Branch				House				Branch	House	Branch	House
Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL				
Marshall County Fiscal Court Water Lines				20	1,000,000		1,000,000				49,000
Marshall Riverport Authority at Calvert City				20	2,000,000		2,000,000				96,000
Owenton/Owen County Natural Gas Line Project				20	5,000,000		5,000,000				234,000
Union County Jail				20	6,000,000		6,000,000				281,000
Warren County Fiscal Court Transpark - Rail Spur				20	4,500,000		4,500,000				211,000
Woodford County Fiscal Court - Midway Industrial Park				20	1,000,000		1,000,000				49,000
Woodford County Fiscal Court Senior Citizens Center Renovation				20	1,000,000		1,000,000				49,000
Agriculture											
Animal Shelters				7	5,000,000		5,000,000				460,000
Kentucky River Authority											
KRA - Locks 9 and 10				20	17,500,000		17,500,000				815,000
School Facilities Construction Commission											
Additional Offers of Assistance				20	50,000,000		50,000,000				2,110,000
Offers of Assistance	20	100,000,000	100,000,000		100,000,000		100,000,000	1,688,000	1,688,000	8,438,000 *	6,329,000
Commerce		45,008,000	45,008,000		69,127,000		69,127,000			4,202,000	5,623,000
Parks											
E.P. "Tom" Sawyer-Convention Center	20	1,000,000	1,000,000		1,000,000		1,000,000			98,000 *	49,000
Grayson Lake State Park - Construct Pavilion, Renovate Bathhouse and Improve Amphitheater and Other Rec Areas				20	2,000,000		2,000,000				96,000
Herrington Lake State Park - Land Acquisition and Development				20	2,500,000		2,500,000				119,000
J.J. Audubon State Park - Campground and Entrance Construction				20	2,500,000		2,500,000				119,000
Kincaid Lake State Park - Infrastructure Development				20	1,200,000		1,200,000				58,000
Parks Renovation Pool	20	8,000,000	8,000,000		8,000,000		8,000,000			746,000 *	373,000
Yatesville Lake State Park - Expand Campground, Construct Pavilion and Improve Other Park Areas				20	2,000,000		2,000,000				96,000
Horse Park Commission											
Horse Park Indoor Arena	20	34,820,000	34,820,000		36,500,000		36,500,000			3,243,000 *	3,399,000 *
State Fair Board											
KY International Convention Center- Pavilion Roof	20	1,188,000	1,188,000		1,250,000		1,250,000			115,000 *	61,000

* - Denotes Full-year debt service

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service	
Branch				House				Debt Service		Debt Service	
Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL	Branch	House	Branch	House
Upgrade HVAC Systems				20	2,000,000		2,000,000				96,000
Historical Society											
African American Museum - Louisville				10	7,260,000		7,260,000				1,012,000 *
Battle of Richmond Association				20	1,900,000		1,900,000				91,000
Camp Nelson Civil War Park				20	400,000		400,000				22,000
Perryville Battlefield				20	617,000		617,000				32,000
Economic Development											
	30,000,000		30,000,000		112,500,000		112,500,000			2,982,000	5,333,000
Secretary											
New Economy High Tech Construction/Investment Pool	20	20,000,000	20,000,000		20,000,000		20,000,000			2,051,000 *	1,026,000
Financial Incentives											
Economic Development Bond Pool	20	10,000,000	10,000,000		17,500,000		17,500,000			931,000 *	815,000
New Louisville Arena				20	75,000,000		75,000,000				3,492,000
Department of Education											
	37,350,000		37,350,000		88,650,000		88,650,000			5,201,000	8,730,000
Operation and Support Services											
Education Technology Pool				5	50,000,000		50,000,000				6,069,000
Kentucky Education Network				10	8,900,000		8,900,000				620,000
Knowledge Management Portal	10	6,250,000	6,250,000		3,250,000		3,250,000			872,000 *	229,000
On-Line Assessment	10	15,000,000	15,000,000		15,000,000		15,000,000			2,088,000 *	1,044,000
P-16 Education IT Integration Initiative	10	16,100,000	16,100,000							2,241,000 *	
Rockcastle County Vocational and Technical Center				20	1,500,000		1,500,000				72,000
Student Information System				10	10,000,000		10,000,000				696,000
Education Cabinet											
					23,762,000		23,762,000				2,283,000
Kentucky Education Television											
Replace Master Control & Production Infrastructure				5	15,707,000		15,707,000				1,907,000
Libraries and Archives											
Expand the Libraries and Archives Building				20	8,055,000		8,055,000				376,000

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service		
Branch				House								
	Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL	Branch	House	Branch	House
Environmental and Public Protection		25,000,000		25,000,000	30,000,000		30,000,000				3,479,000	1,974,000
Nature Preserves Commission												
Heritage Land Conservation Fund					20	5,000,000	5,000,000				234,000	
Petroleum Underground Storage Tank		10	25,000,000	25,000,000	25,000,000		25,000,000				3,479,000 *	1,740,000
Finance and Administration		135,208,000		5,000,000	140,208,000	66,192,000		66,192,000			15,193,000	4,153,000
General Administration												
New Louisville Arena		20	75,000,000	75,000,000							6,984,000 *	
Facilities and Support Services												
Capital Plaza Tower-Design Renovation Project		20	4,942,000	4,942,000	4,942,000		4,942,000				463,000 *	232,000
Renovate State Office Building Phase II		20	12,699,000	12,699,000	13,600,000			13,600,000			1,183,000 *	634,000
Statewide Repair, Maintenance and Replacement Pool		10	5,000,000	5,000,000	10,000,000	10,000,000		10,000,000			1,391,000 *	696,000
Commonwealth Office of Technology												
Data Center Readiness		20	1,317,000	1,317,000	1,400,000			1,400,000			127,000 *	68,000
Public Safety Commission Infrastructure - KEWS-Phase II		10	13,000,000	13,000,000	13,000,000		13,000,000				1,810,000 *	905,000
Revenue												
Implement a Comprehensive Tax System		10	23,250,000	23,250,000	23,250,000		23,250,000				3,235,000 *	1,618,000
Health and Family Services		5,146,000		5,146,000	20,265,000		20,265,000				632,000	1,021,000
General Administration												
TWIST Re-Write-Phase II		10	3,134,000	3,134,000	3,134,000		3,134,000				440,000 *	220,000
Public Health												
Local and District Health Department Construction Pool					20	10,000,000		10,000,000				466,000
Mental Health and Mental Retardation Services												
Oakwood-Replace Chillers		20	2,012,000	2,012,000	2,131,000			2,131,000			192,000 *	101,000
Community Based Services												
Home of the Innocents					20	5,000,000		5,000,000				234,000
Justice and Public Safety		1,607,000		1,607,000	2,297,000		2,297,000				154,000	113,000
Juvenile Justice												
Gateway Juvenile Diversion Center Renovation Project					20	600,000		600,000				31,000
Renovate Lonnie Watson Building - KCIW		20	1,607,000	1,607,000	1,697,000			1,697,000			154,000 *	82,000

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service		
Branch				House				Branch	House	Branch	House	
Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL					
Postsecondary Education												
Council on Postsecondary Education	260,276,000		260,276,000		503,572,000		503,572,000		24,252,000		23,931,000	
Postsecondary Education Institutions-Capital Renewal Pool	20	13,000,000	13,000,000		13,927,000		13,927,000		1,211,000 *		649,000	
Postsecondary Education Institutions-Technology & Equipment Pool	7				10,000,000		10,000,000				917,000	
Eastern Kentucky University				20	54,108,000		54,108,000				2,519,000	
Dairy Research Farm-Meadowbrook	20	5,121,000	5,121,000		5,300,000		5,300,000		479,000 *		248,000	
Kentucky State University				20	4,900,000		4,900,000				230,000	
Hathaway Hall Renovation, Phase III	20	4,707,000	4,707,000		4,920,000		4,920,000		441,000 *		231,000	
Morehead State University				20	2,500,000		2,500,000				119,000	
Construct Center for Health, Education and Research	20	15,000,000	15,000,000		23,000,000		23,000,000		1,398,000 *		1,071,000	
Space Science Center	20				3,400,000		3,400,000				160,000	
Murray State University				20	15,000,000		15,000,000				699,000	
Northern Kentucky University				20	35,500,000		35,500,000				1,653,000	
Renovate Old Science Building	20	14,192,000	14,192,000						1,322,000 *			
University of Kentucky	20	75,968,000	75,968,000		79,892,000		79,892,000		7,075,000 *		3,720,000	
Livestock Disease Diagnostic Center, Phase II	20				13,500,000		13,500,000				629,000	
University of Louisville	20	65,997,000	65,997,000		69,680,000		69,680,000		6,146,000 *		3,245,000	
Western Kentucky University	20	4,311,000	4,311,000		4,500,000		4,500,000		405,000 *		211,000	
Construct Materials Characterization Center/ICSET-Ph II	20				35,000,000		35,000,000				1,630,000	
Renovate Science Campus-Phase III	20	6,700,000	6,700,000		9,000,000		9,000,000		626,000 *		420,000	
Replace Ford College of Business-Grise Hall, Phase I	20				5,800,000		5,800,000				272,000	

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service	
Branch				House				Branch	House	Branch	House
Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL				
Kentucky Community and Technical College System											
Advanced Technology Center - Owensboro CTC				20	14,055,000		14,055,000				655,000
Big Sandy CTC - Design New Facility				20	1,500,000		1,500,000				72,000
Carrollton County Campus - Design - Jefferson CTC				20	500,000		500,000				26,000
Construct Central Regional Postsecondary Ed Center Phase II - Elizabethtown CTC				20	19,400,000		19,400,000				904,000
Construct Science/Allied Health Bldg - JCTC				20	25,557,000		25,557,000				1,190,000
Emerging Tech Center West Ky Comm & Tech	20	15,473,000	15,473,000		16,518,000		16,518,000			1,441,000 *	770,000
Energy and Advanced Technology Center - Madisonville CC				20	4,000,000		4,000,000				188,000
Gateway CTC - Construct Mt. Zion Campus-Phase II	20	26,607,000	26,607,000							2,478,000 *	
Gateway CTC - Design Mt. Zion Campus-Phase II				20	1,000,000		1,000,000				49,000
Licking Valley Campus, Phase II - Maysville CTC				20	1,000,000		1,000,000				49,000
Rowan County Campus - Planning and Design - Maysville CTC				20	1,500,000		1,500,000				72,000
Somerset CC Laurel-Construct Allied Health/Tech Ed Bldg	20	13,200,000	13,200,000		13,815,000		13,815,000			1,230,000 *	644,000
Tech Drive Campus, Phase III - Ashland CTC				20	14,800,000		14,800,000				689,000

Agency Bonds	205,132,000	205,132,000	483,609,000	483,609,000	19,105,000	45,064,000
General Government			5,000,000	5,000,000		468,000
Kentucky River Authority						
KRA - Lock 3	20	5,000,000		5,000,000		468,000 *

Postsecondary Education	205,132,000	205,132,000	478,609,000	478,609,000	19,105,000	44,596,000
Eastern Kentucky University						
New Student Housing	20	9,961,000	9,961,000	10,520,000	10,520,000	928,000 * 980,000 *

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Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service	
Branch				House				Branch	House	Branch	House
Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL				
Kentucky State University											
Construct New Residence Hall (Privatized)				20	20,000,000		20,000,000				1,863,000 *
Construct Parking Structure				20	7,000,000		7,000,000				654,000 *
Morehead State University											
Construct Student Recreation Center				20	17,000,000		17,000,000				1,584,000 *
Renovate Student Housing Facilities				20	10,000,000		10,000,000				931,000 *
Murray State University											
New Residential College	20	12,106,000	12,106,000		13,077,000		13,077,000			1,128,000 *	1,218,000 *
Renovate Curris Center and T-Room				20	750,000		750,000				75,000 *
Replace Franklin Hall				20	13,077,000		13,077,000				1,218,000 *
Replace Richmond Hall				20	13,077,000		13,077,000				1,218,000 *
Northern Kentucky University											
Construct Parking Garage # 3				20	15,400,000		15,400,000				1,434,000 *
Construct Parking Garage # 4				20	9,200,000		9,200,000				858,000 *
Construct Student Housing				20	23,000,000		23,000,000				2,142,000 *
Expand Norse Commons				20	1,400,000		1,400,000				135,000 *
Student Union Building	20	17,360,000	17,360,000		17,360,000		17,360,000			1,617,000 *	1,617,000 *
University of Kentucky											
Construct Patient Care Facility, Phase II - Hospital	20	130,000,000	130,000,000		150,000,000		150,000,000			12,106,000 *	13,968,000 *
Install HVAC - Keeneland Hall				20	7,013,000		7,013,000				655,000 *
Renovate Blazer Hall Cafeteria				20	3,010,000		3,010,000				284,000 *
University of Louisville											
Construct Basketball Practice Facility, Phase II				20	16,140,000		16,140,000				1,503,000 *
Construct Center for Predictive Medicine	20	11,549,000	11,549,000		13,000,000		13,000,000			1,076,000 *	1,211,000 *
Construct HSC Parking Structure II				20	26,113,000		26,113,000				2,432,000 *
Construct Residence Hall , 500 Bed				20	33,172,000		33,172,000				3,090,000 *
Renovate Medical Dental Research Building, Phase IV				20	19,800,000		19,800,000				1,844,000 *
Western Kentucky University											
Acquire Property & Construct Parking Lots				20	4,000,000		4,000,000				376,000 *
Expand Preston Center				20	10,000,000		10,000,000				931,000 *
Renovate Academic/Athletic Facility #2	20	24,156,000	24,156,000		25,500,000		25,500,000			2,250,000 *	2,375,000 *

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	Biennial Project Scope (bond terms noted)								FY 2007 Appropriated Debt Service		FY 2008 Appropriated Debt Service	
	Branch				House							
	Term	FY 2007	FY 2008	TOTAL	Term	FY 2007	FY 2008	TOTAL	Branch	House	Branch	House
Road Fund Bonds		75,000,000		75,000,000		75,000,000		75,000,000			6,984,000	6,984,000
Transportation		75,000,000		75,000,000		75,000,000		75,000,000			6,984,000	6,984,000
Revenue Sharing												
Highway Bonds-County and Municipal	20	75,000,000		75,000,000		75,000,000		75,000,000			6,984,000 *	6,984,000 *

Summary

Bond Funds	652,595,000	5,000,000	657,595,000	1,254,731,000	1,254,731,000	1,688,000	1,925,000	65,753,000	70,888,000
Agency Bonds	205,132,000		205,132,000	483,609,000	483,609,000			19,105,000	45,064,000
Road Fund Bonds	75,000,000		75,000,000	75,000,000	75,000,000			6,984,000	6,984,000
Totals	932,727,000	5,000,000	937,727,000	1,813,340,000	1,813,340,000	1,688,000	1,925,000	91,842,000	122,936,000

Note 1: The bonds proposed for the High Tech Construction and High Tech Investment Bond Pool within the Office of the Secretary, Cabinet for Economic Development are assumed to be taxable.

Note 2: Included in the Transportation Cabinet's budget is a Federal Fund appropriation in the amount of \$34,963,000 in fiscal year 2006-2007 and fiscal year 2007-2008 for debt service on GARVEE bonds.

The debt service will generate approximately \$290 million in Bond Funds.

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General Parts

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**Fiscal Biennium 2006-2008
Budget Modification Report**

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Part II - Capital Projects Budget

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part II, Capital Projects Budget, includes the following directives:

(1) **Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2006-2008 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) **Expiration of Existing Line-Item Capital Construction Projects:** All appropriations to existing line-item capital construction projects expire on June 30, 2006, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2006; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, provided that the authorized project completes an initial draw on the line of credit within the biennium immediately subsequent to the original authorization; and (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 2004-2006 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c).

(3) **New Bond Projects:** Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included effective July 1, 2007, for all new bond projects.

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(4) **Bond Proceeds Investment Income:** Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Statewide Deferred Maintenance Fund account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below \$5,000,000 in fiscal year 2006-2007, any debt service lapse necessary to bring the fund balance to \$5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, or the Statewide Deferred Maintenance Pool account, shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other Parts of this Act.

(5) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; the Capital Renewal and Maintenance Bond Pool; Heritage Land Conservation projects; Flood Control projects; the Parks Renovation Pool; the

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Statewide Repair, Maintenance, and Replacement Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over \$400,000 and equipment estimated to cost over \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

(6) **Jefferson County Medical Society:** Notwithstanding KRS Chapter 45A or any other statute or provision of the law to the contrary, the Commonwealth releases the Medical Foundation of the Jefferson County Medical Society from its Promissory Note dated June 15, 1979, in the principal amount of \$110,000.

(7) **Executive Mansion Restoration:** In accordance with the process involved in previous renovations of the Executive Mansion and notwithstanding KRS 11.027, 41.290, 56.491, and 337.505 to 337.550, KRS Chapter 45A, or any other provision of law to the contrary, the Finance and Administration Cabinet is authorized to enter into an agreement with the Governor's Mansion Preservation Foundation (the foundation) concerning the renovation of the Executive Mansion. All design drawings for the renovation shall be inspected and approved by the Division of Historic Properties for the purpose of ensuring that the work and materials are consistent with the principles of historic preservation and in compliance with all applicable codes and regulations. All work shall be conducted under the supervision of the Finance and Administration Cabinet's Division of Historic Properties, and all such work shall become the property of the Commonwealth. The foundation shall have the authority to select contractors and service providers and to enter into contracts to purchase or receive donations of goods, materials, and services necessary to the renovation; provided, however, that payment and performance bonds in an amount deemed by the Secretary of the Finance and Administration Cabinet to be

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appropriate for the protection of the Commonwealth's interest therein shall be provided with respect to work performed on the Executive Mansion.

HOUSE REPORT

The House concurs with the Branch, Part II, Capital Projects, with the following changes:

2) Expiration of Existing Line-Item Capital Construction Projects: All appropriations to existing line-item capital construction projects expire on June 30, 2006, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2006; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, provided that the authorized project completes an initial draw on the line of credit within the biennium immediately subsequent to the original authorization; (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 2004-2006 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c); and (d) Any capital construction project authorized pursuant to actions approved by the 2005 General Assembly in House Joint Resolution 92 (2005 Ky. Acts ch. 170, Vol. Ia, Part II Coal Severance Tax Projects), unless otherwise provided for in this Act, is deemed to be reauthorized up to the total amount of receipts allocated to the single county account at the end of fiscal year 2005-2006. Notwithstanding the criteria set forth in this section, the disposition of 2004-2006 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d).

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(3) **New Bond Projects:** Bond projects authorized for the first time in this Part which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included effective August 1, 2006, for two projects, Acquire Land for the Wendell H. Ford Training Center and the Daviess County Fiscal Court Renovation of Juvenile Detention Center. Debt Service has been included effective February 1, 2007, for the Horse Park Indoor Arena and the African-American Museum. The sale of all other bonds to finance the remaining projects shall occur after August 1, 2007.

(5) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; the Capital Renewal and Maintenance Bond Pool; Heritage Land Conservation projects; Flood Control projects; the Parks Renovation Pool; the Statewide Repair, Maintenance, and Replacement Pool; the Health Departments Infrastructure Pool; and University Major Items of Equipment Pools. Any projects estimated to cost over \$400,000 and equipment estimated to cost over \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

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(8) **Louisville Arena:** (a) The Louisville Arena economic development grant shall pay a portion of the cost to construct the Louisville Arena, a public project intended for multiple uses as a public recreational, cultural, and sports facility. In the interest of the public good, the above appropriation is contingent upon the Louisville Arena Authority, Inc. being established pursuant to KRS Chapter 58 as an instrumentality or agent of the Louisville/Jefferson County Metro Government, a political subdivision of the Commonwealth, and that all Louisville Arena Authority, Inc. business shall be conducted in accordance with the Louisville/Jefferson County Metro Government Procurement Procedures and the Ethics Code and Ethics Commission.

(b) The \$75,000,000 economic development grant shall be contingent upon construction of the arena on the site known as the Water Company site, and the execution of contracts or memorandum of understanding by the Louisville Arena Authority, Inc. and applicable parties to ensure the following:

1. Kentucky State Fair Board - The Kentucky State Fair Board shall be the sole, independent managing agent for the Louisville Arena and shall have complete authority over the day-to-day operations, including but not limited to event attractions, scheduling, and coordination between the facilities and venues, in accordance with general guidelines established or mutually modified by the parties. Any negative financial impact to Kentucky State Fair Board operations resulting in the movement of business from current facilities to the new arena shall be reimbursed to the Kentucky State Fair Board; and

2. University of Louisville - The University shall control all revenue generated by suite rental and club seating, and shall have complete authority over scheduling of University events and the determination of naming rights.

(c) Debt issued by the Louisville Arena Authority, Inc. shall not constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Nor shall any debt issued by the entity be deemed, directly or indirectly, to be a moral obligation of

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the Commonwealth. In no case shall the Commonwealth pay for any construction cost overruns or operating costs associated with the Louisville Arena.

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BRANCH BUDGET

The State Executive Branch Budget Bill, Part III, General Provisions, includes the following directives:

1. Funds Designations and Sources: Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. Expenditure of Excess Restricted Funds or Federal Funds Receipts: If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2006-2007 or fiscal year 2007-2008, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

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Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2006-2007 or fiscal year 2007-2008, respectively, then the appropriation increase may be approved. In the event that the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted Funds or Federal Funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2006-2008 Branch Budget Request Manual and according to the following schedule in each fiscal year: (a) On or before the beginning of each fiscal year; (b) On or before October 1; (c) On or before January 1; and (d) On or before April 1.

3. Interim Appropriation Increases: No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

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Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

4. Revision of Appropriation Allotments: Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

5. Appropriations Expenditure Purpose and Transfer Restrictions: Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

6. Permitted Appropriation Obligations: No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

7. Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds: Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

8. Federally Funded Agencies: A state agency entitled to Federal Funds, which would represent 100 percent of the cost of a program, shall conform to KRS 48.730.

9. Lapse of General Fund or Road Fund Excess Debt Service Appropriations: Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

10. Continuing Appropriations: All statutes and portions of statutes in conflict with any of the provisions of this Act, to the extent of the conflict, are suspended unless otherwise provided by this Act.

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11. Construction of Budget Provisions on Statutory Budget Administration Powers and Duties: Nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. Interpretation of Appropriations: All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. Publication of the Budget of the Commonwealth: The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2006 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the Legislative Budget, State/Executive Budget, and Judicial Budget as enacted by the 2006 Regular Session, as well as other Acts which contain appropriation provisions for the 2006-2008 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2006 Regular Session, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. State Financial Condition: Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. Prorating Administrative Costs: The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate

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federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. Construction of Budget Provisions Regarding Executive Reorganization Orders: Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2006 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2005 Regular Session to sine die adjournment of the 2006 Regular Session was not confirmed by the 2006 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2005-2006 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2006 Regular Session of the General Assembly.

17. Budget Planning Report: By August 15, 2007, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

18. Tax Expenditure Revenue Loss Estimates: By October 15, 2007, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

19. Duplicate Appropriations: Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in any Act of the 2006 Regular Session which constitutes a duplicate appropriation shall be governed by KRS 48.312.

20. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

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21. Severability of Budget Provisions: Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

22. Unclaimed Lottery Prize Money: For fiscal year 2006-2007 and fiscal year 2007-2008, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Kentucky Excellence in Education Scholarship (KEES) Reserve Account within the Finance and Administration Cabinet for the purpose of funding the KEES Program as appropriated in this Act. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the Subsidiary Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

23. Sales and Use Tax Collection and Remittance Compensation: Notwithstanding KRS 139.570, for the periods after June 30, 2006, the total reimbursement allowed per taxpayer in any month shall not exceed \$1,500. Notwithstanding KRS 139.240, 139.250, or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

24. Abandoned Property Held by Financial Institutions: Notwithstanding KRS 393.060, the dormancy period for property held or owing by a banking or financial institution, other than traveler's checks, shall be three years rather than seven years.

25. Sale of Abandoned Property by Treasury Department: Pursuant to KRS 393.125, the department, within three years of the receipt of abandoned property that are securities, shall sell the securities. Unclaimed securities received by the department before June 30, 2004, shall be sold by June 30, 2007, with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund. Unclaimed securities received by the department after June 30, 2004, and on or before June 30, 2005, shall be sold by June 30, 2008, with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund.

26. Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

27. Reallocation of Appropriations Among Budget Units: The Executive Branch shall implement appropriate actions necessary to operate within the appropriations authorized in this Act. The General Assembly recognizes that Executive Branch agency heads may

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determine it to be necessary to modify the actual budget unit expenditure totals within each cabinet and agency in order to manage within the available resources provided in this Act in order to execute prescribed administrative and program directives. Notwithstanding KRS 48.140(7), the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads are authorized to request revisions or reallocations in appropriation authority among budget units under their administrative authority for the purpose of implementing this Act. Prior to requesting any reallocation between appropriation units, the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads shall submit a request to the Office of State Budget Director to transfer General Fund and Restricted Funds appropriation authority within their respective cabinet or agency. Such requests shall specify the need for the transfer of the authority. Any transfers made within the respective cabinet or agency under this section for any cabinet, agency, or the Department of Education shall result in no change to the total amounts appropriated. Any transfers made within the respective cabinet or agency under this section shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

28. Undesignated General Fund and Road Fund Carry Forward: Notwithstanding KRS 48.700 and 48.705 and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2006-2007, the actual amount of undesignated balance of the General Fund and the Road Fund for the year just ended. The amounts from the undesignated fiscal year 2006-2007 General Fund and Road Fund balances that are designated and carried forward for budgeted purposes in the 2006-2008 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. The General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Expenditure Plan contained in Part VII of this Act unless otherwise provided in this Act. The Road Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the Road Fund Surplus Expenditure Plan contained in Part IX of this Act unless otherwise provided in this Act.

29. Workers' Compensation Surety Bond: Notwithstanding KRS 342.340(1) or any other provision of law, public sector self-insured employers are not required to deposit funds as security, indemnity, or bond to secure the payment of compensation liabilities, provided that each public sector employer has the authority to impose taxes in an amount sufficient to recoup payments of compensation liabilities as they are incurred.

HOUSE REPORT

The House concurs with the Branch with the following changes.

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The House makes the following language changes to the State/Executive Branch Budget Bill, Part III, General Provisions.

Provision number 27, **Reallocation of Appropriations Among Budget Units**, has been removed.

Provision number 28, **Undesignated General Fund and Road Fund Carry Forward**, has been renumbered to number 27.

Provision number 29, **Workers' Compensation Surety Bond**, has been renumbered to number 28. The language in this provision is also changed to "Notwithstanding KRS 342.340(1) or any other provision of law, public sector self-insured employers are not required to deposit funds as security, indemnity, or bond to secure the payment of compensation liabilities, provided that each public sector employer has the authority to impose taxes or raise tuition in an amount sufficient to recoup payments of compensation liabilities as they are incurred.

29. Reduction In State Utility Costs: The Finance and Administration Cabinet is hereby directed to continue to review current practices to reduce energy costs to achieve a government-wide savings of total utility costs. The Cabinet is empowered to utilize expertise in the Department of Natural Resources, the Public Service Commission, and other agencies to accomplish this goal.

30. Cellular Telephones/Electronic Devices: By 90 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall review the use of cellular telephones and other types of electronic communication devices and issue guidelines to state agencies specifying criteria to document the need for such equipment. A copy of the guidelines shall be transmitted to the Interim Joint Committee on Appropriations and Revenue at the time of issuance.

31. Printing: The General Assembly declares that the financial condition of the Commonwealth requires that the Secretary of the Finance and Administration Cabinet shall review all state printing, including publications and the associated cost of storage, distribution, and advertising and direct all state agencies to use Internet and other electronic technology to provide public access to the fullest extent possible in order to reduce costs.

32. Travel Expenditures: All state agencies shall continue to monitor all travel expenditures and shall utilize state parks or other state facilities to the fullest extent feasible. The Secretary of the Finance and Administration Cabinet shall review all out-of-state travel requests for three or more state employees to attend the same destination or event and shall approve the requests if deemed necessary.

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33. Horse Cave Repertory Theatre: The Horse Cave Repertory Theatre located in Hart County, Kentucky is named and designated as the official state repertory theatre.

34. Tobacco Research Trust Fund: Notwithstanding KRS 248.540 and 248.550, the Tobacco Research Trust Fund shall be credited with a minimum of \$3,140,000 annually regardless of whether the revenues received under KRS 248.540(1) are sufficient to generate this amount. If the revenues provided for in KRS 248.540(1) are not sufficient to ensure the prescribed funding level, the difference shall be deposited in the Tobacco Research Trust Fund from the General Fund.

35. Fiscal Year 2007-2008 Funds Expenditure Restriction: Except in the case of a declared emergency, the Governor, all agency heads, and all other constitutional officers shall not expend or encumber in the aggregate more than 55 percent of the funds appropriated by this Act during the first half of fiscal year 2007-2008.

36. Comprehensive Study of Capital Cases in Kentucky The Legislative Research Commission shall conduct a comprehensive statewide study of Kentucky capital cases. The study shall include the following issues.

- (a) The cost to the Commonwealth to administer the death penalty since enactment of the sentence in 1976, including, but not limited to the prosecution, defense, judicial, and correctional costs for all cases for which the death penalty was or could have been imposed;
- (b) The timeliness, or lack thereof, in the implementation of the death penalty;
- (c) The effectiveness of the assistance of counsel for the defendant;
- (d) Evidentiary issues involving informants, testimony in such cases, and confessions;
- (e) Resources available to both the prosecution and defense legal teams;
- (f) The role of prosecutorial discretion in seeking the death penalty;
- (g) The potential appointment of a state independent review team to evaluate guidelines and procedures, and assess the socioeconomic characteristics of those receiving the death penalty;
- (h) Issues of jury selection, instruction, and education; and
- (i) Access to DNA evidence.

The Legislative Research Commission shall transmit the results of the study to the Interim Joint Committee on Judiciary no later than January 1, 2007.

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Part III - General Provisions

37. Appropriation of Budget Reserve Trust Fund: Pursuant to KRS 48.705, \$80,000,000 from the Budget Reserve Trust Fund is available in fiscal year 2007-2008 to be appropriated by the General Assembly in this Act.

38. Economic Development Study: The Legislative Research Commission is directed to evaluate Kentucky's economic development incentive programs. The findings shall be reported to the Legislative Research Commission no later than December 1, 2006. The Legislative Research Commission may retain a consultant. Provisions of this subsection to the contrary notwithstanding, the Legislative Research Commission shall have the authority to assign the responsibilities for the issues identified in this subsection to an interim joint committee or subcommittee thereof, and to designate a study completion date.

39. Kentucky Wine and Vine Fest: The Kentucky Wine and Vine Fest of Nicholasville, Kentucky, is named and designated as the official state wine festival.

40. Civil War Reenactors: Notwithstanding KRS 38.440, Civil War reenactors may associate, drill, and parade with firearms and/or swords without permission from the Governor before, during, and after Civil War reenactments and events.

41. Voluntary Assignment of Escrow Payments: Funds totaling \$35,000,000 in fiscal year 2006-2007 and \$20,000,000 in fiscal year 2007-2008 from the voluntary assignment of escrow payments by nonparticipating manufacturers shall be appropriated to the Budget Reserve Trust Fund.

42. General Fund Expenditure Reductions Through Efficiencies: The Executive Office of the Governor shall reduce General Fund expenditures appropriated in this Act by \$35,000,000 in fiscal year 2006-2007 and by \$15,000,000 in fiscal year 2007-2008, by continuing to reduce waste, fraud, and abuse, and by creating additional savings through increased efficiencies. The biennial savings are in addition to the revenue measures directed by the Executive Branch.

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Part IV - State Salary/Compensation and Employment Policy

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part IV, State Salary/Compensation and Employment Policy includes the following directives:

"Maximum Filled Permanent Positions: Notwithstanding KRS 18A.010(2), for the 2006-2008 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2006-2008 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice."

"Authorized Personnel Complement: On July 1, 2006, the Personnel Cabinet and the Office of State Budget Director shall establish a record for each budget unit of authorized permanent and other positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of permanent full-time, permanent part-time, and all other positions shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of the Personnel Cabinet may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis."

"Salary Adjustments: Notwithstanding KRS 18A.355(1), in fiscal year 2006-2007 and in fiscal year 2007-2008 a salary adjustment amounting to an annualized value on the base salary or wages of each eligible full-time and part-time employee on their anniversary date is provided. The amount of the salary adjustment is determined by each eligible employee's annual base salary or wages on their anniversary date, and the following table reflects the annualized values of the salary adjustment for fiscal year 2006-2007 and fiscal year 2007-2008."

"Annual Base Salary or Wages	2006-07	2007-08
\$0 to \$20,000.00	\$1,000	\$1,000
\$20,000.01 to \$30,000.00	\$900	\$900
\$30,000.01 to \$40,000.00	\$800	\$800

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Part IV - State Salary/Compensation and Employment Policy

\$40,000.01 to \$50,000.00	\$600	\$600
\$50,000.01 to \$60,000.00	\$400	\$400
\$60,000.01 and above	\$200	\$200"

"Commencing with an eligible employee's anniversary date, the salary adjustment shall be added to the eligible employee's base salary or wages and shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The Secretary of the Personnel Cabinet shall determine the pro rata amount of the salary adjustment to be provided to part-time employees. The salary adjustment shall be a part of the salary or wage base of the employee."

"State Salary and Compensation Fund: The State Budget Director shall determine the amount of funds from the appropriation in Part I, Operating Budget, J. Personnel Cabinet, 4. State Salary and Compensation Fund, of this Act by budget unit necessary to provide for the salary adjustments. The State Salary and Compensation Fund shall be supplemented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for the salary adjustments."

"The State Budget Director shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Salary and Compensation Fund to transfer to each affected budget unit and such funds shall be transferred. The State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue the implementation of these provisions."

"Monthly Per Employee Health Insurance Benefits Assessment: The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission pursuant to KRS 48.040 and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program."

"Employee Cross Reference: The Personnel Cabinet shall permit married couples who are both eligible to participate in the state health insurance plan to be covered under one family health benefit plan and to apply each employer contribution for the single premium of the plan they select toward family coverage, not to exceed the total premium."

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Part IV - State Salary/Compensation and Employment Policy

"Employer Retirement Contribution Rates: Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2006, through June 30, 2007, shall be no more than 7.30 percent for nonhazardous duty employees and 21.67 percent for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 24.82 percent. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2007, through June 30, 2008, shall be no more than 8.10 percent for nonhazardous duty employees and 23.83 percent for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 27.30 percent."

"Interest Earnings: Interest accruing to the Public Employees Self-Insured Health Insurance Fund shall be credited to the fund."

HOUSE REPORT

The House concurs with the Branch with the following changes:

The House amends the State/Executive Branch Budget Bill, Part I, Operating Budget, to include the following language provisions.

"Salary Adjustments: Notwithstanding KRS 18A.355(1), in fiscal year 2006-2007 and in fiscal year 2007-2008 a salary adjustment amounting to an annualized value on the base salary or wages of each eligible full-time and part-time employee on their anniversary date is provided. The amount of the salary adjustment is determined by each eligible employee's annual base salary or wages on their anniversary date, and the following table reflects the annualized values of the salary adjustment for fiscal year 2006-2007 and fiscal year 2007-2008."

"Annual Base Salary or Wages	2006-07	2007-08
\$0 to \$30,000.00	\$1,350	\$1,350
\$30,000.01 to \$50,000.00	\$1,200	\$1,200
\$50,000.01 to \$60,000.00	\$1,000	\$1,000
\$60,000.01 to \$80,000.00	\$600	\$600
\$80,000.01 and above	\$400	\$400"

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Part IV - State Salary/Compensation and Employment Policy

"Commencing with an eligible employee's anniversary date, the salary adjustment shall be added to the eligible employee's base salary or wages and shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The Secretary of the Personnel Cabinet shall determine the pro rata amount of the salary adjustment to be provided to part-time employees. The salary adjustment shall be a part of the salary or wage base of the employee."

"Public Employees Self-Insured Health Insurance Premiums: Beginning with the employer premium due for coverage effective July 1, 2006, under the Public Employees Self-Insured Health Insurance Program, the employer rate shall be reduced by 12 percent for the balance of Plan Year 2006. For Plan Year 2007, the increase in employer and employee premiums for coverage under the Public Employees Self-Insured Health Insurance Program shall not exceed 10.4 percent for the Essential Plan and 9 percent for the Enhanced and Premium Plan over the Plan Year 2006 rates as adjusted by this Act."

"Employer Retirement Contribution Rates: Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2006, through June 30, 2007, shall be 7.75 percent, consisting of 4.83 percent for pension and 2.92 percent for insurance, for nonhazardous duty employees and 22.0 percent, consisting of 8.75 percent for pension and 13.25 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 25.5 percent, consisting of 12.44 percent for pension and 13.06 percent for insurance. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2007, through June 30, 2008, shall be 8.5 percent, consisting of 5.47 percent for pension and 3.03 percent for insurance, for nonhazardous duty employees and 24.25 percent, consisting of 9.79 percent for pension and 14.46 percent for insurance for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 28.0 percent, consisting of 14.23 percent for pension and 13.77 percent for insurance."

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Part VI - General Fund Budget Reduction Plan

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part VI, General Fund Budget Reduction Plan, includes the following directives:

"Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of \$8,508,654,300 in fiscal year 2006-2007 and \$8,873,542,400 in fiscal year 2007-2008 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

- (1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act;
- (2) Transfers of excess unappropriated Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units;
- (3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth;

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Part VI - General Fund Budget Reduction Plan

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2006-2007 and 50 percent of the trust fund balance in fiscal year 2007-2008; and

(5) Notwithstanding KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in this Part."

HOUSE REPORT

The House concurs with the Branch.

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Part VII - General Fund Surplus Expenditure Plan

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part VII, General Fund Surplus Expenditure Plan, includes the following directives:

"(1) Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 28, of this Act are appropriated to the following:

(a) Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order;

(b) Increased support to the Budget Reserve Trust Fund;

(c) The Kentucky Retirement Systems to address a portion of the actuarially unfunded liability; and

(d) The Kentucky Teachers' Retirement System's medical insurance fund as established in KRS 161.420 to augment the state medical insurance stabilization contribution as established in KRS 161.550.

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2005-2006, and the close of fiscal year 2006-2007, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2005-2006 and fiscal year 2006-2007. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2006, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2005-2006 pursuant to the Plan."

HOUSE REPORT

The House concurs with the Branch.

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Part VIII - Road Fund Budget Reduction Plan

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part VIII, Road Fund Budget Reduction Plan, includes the following directive:

"There is established a Road Fund Budget Reduction Plan for fiscal year 2006-2007 and fiscal year 2007-2008. Pursuant to KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,223,125,400 in fiscal year 2006-2007 and \$1,239,614,400 in fiscal year 2007-2008 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service."

HOUSE REPORT

The House deletes the entire State/Executive Branch Budget Bill, Part VIII, language provision relating to the Road Fund Budget Reduction Plan and creates a new Part VIII language provision as follows:

"There is established a Road Fund Budget Reduction Plan for fiscal year 2006-2007 and fiscal year 2007-2008. Pursuant to KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,223,685,300 in fiscal year 2006-2007 and \$1,240,931,900 in fiscal year 2007-2008 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service."

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Part IX - Road Fund Surplus Expenditure Plan

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part IX, Road Fund Surplus Expenditure Plan, includes the following directive:

"Pursuant to KRS 48.710 and notwithstanding KRS 48.140, there is established a plan for the expenditure of the Road Fund surplus moneys pursuant to a Road Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, Road Fund moneys in the Road Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 28, of this Act are appropriated to the State Construction Account and utilized to support projects in the fiscal biennium 2006-2008 Biennial Highway Construction Program."

HOUSE REPORT

The House concurs with the Branch.

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Part X - Phase I Tobacco Settlement

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part X, Phase I Tobacco Settlement, includes the following directives:

"General Purpose: This Part of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

State's MSA Share: The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are made to the states annually in April of each year.

MSA Payment Amount Variables: The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

Distinct Identity of MSA Payment Deposits: The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

MSA Payment Estimates and Adjustments: Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2005-2006 is \$91,300,000 and in fiscal year 2006-2007 is \$88,800,000 and in fiscal year 2007-2008 is \$94,000,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

State Enforcement: Notwithstanding KRS 248.654, a total of \$175,000 of the MSA payments received each fiscal year of the 2006-2008 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

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Part X - Phase I Tobacco Settlement

Agricultural Development Initiatives: Fifty percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2006-2007, estimated to be \$44,312,500, and in fiscal year 2007-2008, estimated to be \$46,912,500, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

Early Childhood Development Initiatives: Twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2006-2007, estimated to be \$22,156,200, and in fiscal year 2007-2008, estimated to be \$23,456,300, is appropriated for Early Childhood Development Initiatives as specified below.

Health Care Initiatives: Twenty-five percent of the MSA payments received, less the above enforcement appropriations, in fiscal year 2006-2007, estimated to be \$22,156,300, and in fiscal year 2007-2008, estimated to be \$23,456,200, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

MSA Appropriation Adjustment: The Consensus Forecasting Group reduced the fiscal year 2005-2006 Phase I Master Settlement Agreement revenue forecast from the enacted estimate of \$108,600,000 to \$91,300,000, a reduction of \$17,300,000. The revenue estimate reduction was based on the high probability of an adjustment for nonparticipating manufacturers. To accommodate this reduction in estimated revenues, the following fiscal year 2005-2006 appropriations are hereby reduced in accordance with 2005 Ky. Acts ch. 173, Part X, (5):

Agricultural Development

Finance - Debt Service - \$12,097,700

Natural Resources - Conservation - \$630,000

Early Childhood Development

Community Based Services - Child Care - \$1,041,000

Public Health - HANDS - \$393,000

Public Health - Healthy Start - \$50,000

Public Health - Immunizations - \$250,000

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Part X - Phase I Tobacco Settlement

Commission for Children with Special Health Care Needs - Universal Newborn Hearing Screening - \$104,000

Commission for Children with Special Health Care Needs - Universal Newborn Vision Screening - \$5,000

Health Care Improvement

Insurance - Kentucky Access - \$1,139,100

Public Health - Smoking Cessation - \$184,200

Justice Administration - \$151,100

Council on Postsecondary Education - Lung Cancer Research Fund - \$368,600

Enforcement

Revenue - \$11,900

MSA Appropriation Adjustments - Prior Year Receipts Received: In the event that Phase I Master Settlement Agreement revenues due from a prior fiscal year are received in a subsequent fiscal year, those revenues are hereby appropriated as follows: 50 percent to the Agricultural Development Fund, 25 percent to the Early Childhood Development Fund, and 25 percent to the Health Care Improvement Fund.

Agricultural Development: From the 50 percent of the Phase I Master Settlement Agreement payments appropriated to the Agricultural Development Fund pursuant to KRS 248.703, 75 percent of the funds shall be appropriated to the Governor's Office of Agricultural Policy and 25 percent of the funds shall be appropriated to Natural Resources - Conservation.

Early Childhood Development: From the 25 percent of the Phase I Master Settlement Agreement payments appropriated to the Early Childhood Development Fund, the Early Childhood Development Authority shall recommend to the State Budget Director for approval the specific appropriations to be made to the existing initiatives.

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Part X - Phase I Tobacco Settlement

Health Care Improvement: From the 25 percent of the Phase I Master Settlement Agreement payments appropriated to the Health Care Improvement Fund, appropriations shall be made pursuant to KRS 304.17B-003(5).

B. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

Tobacco Settlement Funds - Allocations: Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

Environmental Stewardship Program: Included in the above General Fund (Tobacco) appropriation is \$5,000,000 in fiscal year 2006-2007 and \$6,000,000 in fiscal year 2007-2008 for the Environmental Stewardship Program.

Debt Service: To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

C. EARLY CHILDHOOD DEVELOPMENT

Early Childhood Development Program: Included in the above General Fund (Tobacco) appropriation is \$6,970,400 in fiscal year 2006-2007 and \$7,420,400 in fiscal year 2007-2008 for the Early Childhood Development Program.

HANDS Program, Healthy Start, Universal Children's Immunizations, Folic Acid Program, Early Childhood Mental Health, Early Childhood Oral Health, and Kentucky Early Intervention Services First Steps: Included in the above General Fund (Tobacco) appropriation is \$7,149,800 in fiscal year 2006-2007 and \$7,599,900 in fiscal year 2007-2008 for the Health Access Nurturing Development Services (HANDS) Program; \$1,000,000 in fiscal year 2006-2007 and \$1,140,100 in fiscal year 2007-2008 for Healthy Start initiatives; \$1,750,000 in each fiscal year for Universal Children's Immunizations; \$400,000 in each fiscal year for the Folic Acid Program; \$775,000 in each fiscal year for Early Childhood Mental Health; \$210,500 in each fiscal year for Early Childhood Oral Health; and \$500,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program.

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Part X - Phase I Tobacco Settlement

Substance Abuse Prevention and Treatment: Included in the above General Fund (Tobacco) appropriation is \$800,000 in each fiscal year for substance abuse prevention and treatment.

Universal Newborn Hearing Screening and Vision Screening: Included in the above General Fund (Tobacco) appropriation is \$310,100 in fiscal year 2006-2007 and \$350,000 in fiscal year 2007-2008 for Universal Newborn Hearing Screening and \$2,000 in each fiscal year for Vision Screening.

Children's Advocacy Centers: Included in the above General Fund (Tobacco) appropriation is \$100,000 in each fiscal year for Children's Advocacy Centers.

Early Childhood Scholarships: Included in the above General Fund (Tobacco) appropriation is \$800,000 in fiscal year 2006-2007 and \$900,000 in fiscal year 2007-2008 for Early Childhood Scholarships.

D. HEALTH CARE IMPROVEMENT APPROPRIATION

Kentucky Access Program: Included in the above General Fund (Tobacco) appropriation is \$13,692,700 in fiscal year 2006-2007 and \$14,496,000 in fiscal year 2007-2008 for the Kentucky Access Program.

Smoking Cessation Program: Included in the above General Fund (Tobacco) appropriation is \$2,215,600 in fiscal year 2006-2007 and \$2,345,600 in fiscal year 2007-2008 for the Smoking Cessation Program.

Office of Drug Control Policy: Included in the above General Fund (Tobacco) appropriation is \$1,816,800 in fiscal year 2006-2007 and \$1,923,400 in fiscal year 2007-2008 for the Office of Drug Control Policy.

Ovarian Cancer Screening: Notwithstanding KRS 164.476, General Fund (Tobacco) dollars in the amount of \$633,500 in fiscal year 2006-2007 and \$670,600 in fiscal year 2007-2008 shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

HOUSE REPORT

The House concurs with the Branch with the following changes.

**Fiscal Biennium 2006-2008
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Part X - Phase I Tobacco Settlement

The House reduces General Fund (Tobacco) support for the Governor's Office of Agricultural Policy totaling \$4,000,000 in fiscal year 2006-2007 and \$3,000,000 in fiscal year 2007-2008 to increase the funding for the Environmental Stewardship Program.

The House increases General Fund (Tobacco) support totaling \$4,000,000 in fiscal year 2006-2007 and \$3,000,000 in fiscal year 2007-2008 for the Environmental Stewardship Program.

The House amends the State/Executive Branch Budget Bill, Part X, Phase I Tobacco Settlement, language provisions as follows.

It adds the provision, "The Agricultural Development Fund shall receive fifty percent of the balance of actual MSA Payments in fiscal year 2006-2007 and fiscal year 2007-2008, once appropriations (\$175,000) have been provided to the Finance and Administration Cabinet as outlined in Part X , Section A."

It removes the provision, "(7) a.. Agricultural Development: From the 50 percent of the Phase I Master Settlement Agreement payments appropriated to the Agricultural Development Fund pursuant to KRS 248.703, 75 percent of the funds shall be appropriated to the Governor's Office of Agricultural Policy and 25 percent of the funds shall be appropriated to Natural Resources - Conservation."

(7) b., Early Childhood Development, is re-numbered to **(7) a.**

(7) c., Health Care Improvement, is re-numbered to **(7) b.**

It adds the language, "**Partial Phase II Litigation Proceeds**: Notwithstanding KRS 45.229, General Fund dollars of \$27,000,000, representing partial Phase II litigation proceeds that were appropriated in fiscal year 2005-2006 pursuant to 2005 House Bill 267 (2005 Ky. Acts Chapter 173, Part X, Phase I Tobacco Settlement, B.3.a. (5)(b), shall not lapse in fiscal year 2006-2007 and fiscal year 2007-2008. To the extent possible, all General Fund dollars shall be expended from the account prior to the expenditure of Tobacco Fund dollars."

It adds the language, "The Governor's Office of Agricultural Policy shall provide and make available the funds necessary for the Kentucky Tobacco Settlement Trust Corporation to carry out the provisions of the Phase II Amnesty Payment Program established in Paart XXI. General Fund and or General Fund (tobacco) continuing appropriations from the Governor's Office of Agricultural Policy shall be the source of funds provided to the Kentucky Tobacco Settlement Trust Corporation."

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Summary of Tobacco Settlement Appropriations

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
A - General Government									
Governor's Office of Agricultural Policy									
<u>Tobacco Settlement</u>									
Regular Appropriations	24,541,400	24,541,400		21,469,800	17,469,800	(4,000,000)	23,065,100	20,065,100	(3,000,000)
Reserve Spending	5,252,400	(21,747,600)	(27,000,000)	2,796,500	6,796,500	4,000,000	9,508,700	12,508,700	3,000,000
TOTAL	29,793,800	2,793,800	(27,000,000)	24,266,300	24,266,300		32,573,800	32,573,800	
D - Department of Education									
<u>Learning and Results Services</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations	1,888,400	1,888,400		1,388,400	1,388,400		1,508,400	1,508,400	
Reserve Spending	248,900	248,900							
TOTAL	2,137,300	2,137,300		1,388,400	1,388,400		1,508,400	1,508,400	
F - Environmental and Public Protection Cabinet									
<u>Natural Resources</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations	8,370,000	8,370,000		5,000,000	9,000,000	4,000,000	6,000,000	9,000,000	3,000,000
Reserve Spending	5,966,900	5,966,900							
TOTAL	14,336,900	14,336,900		5,000,000	9,000,000	4,000,000	6,000,000	9,000,000	3,000,000
<u>Insurance</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations	15,612,600	15,612,600		13,692,700	13,692,700		14,496,000	14,496,000	
Reserve Spending									
TOTAL	15,612,600	15,612,600		13,692,700	13,692,700		14,496,000	14,496,000	
G - Finance and Administration Cabinet									
<u>Debt Service</u>									
<u>Tobacco Settlement</u>									
Regular Appropriations	8,318,800	8,318,800		17,842,700	17,842,700		17,847,400	17,847,400	
Reserve Spending	2,019,100	2,019,100							
TOTAL	10,337,900	10,337,900		17,842,700	17,842,700		17,847,400	17,847,400	

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Summary of Tobacco Settlement Appropriations

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
Revenue									
<u>Tobacco Settlement</u>									
Regular Appropriations	163,100	163,100		175,000	175,000		175,000	175,000	
Reserve Spending									
TOTAL	163,100	163,100		175,000	175,000		175,000	175,000	
H - Health and Family Services Cabinet									
Children with Special Health Care Needs									
<u>Tobacco Settlement</u>									
Regular Appropriations	302,100	302,100		312,100	312,100		352,000	352,000	
Reserve Spending	48,700	48,700							
TOTAL	350,800	350,800		312,100	312,100		352,000	352,000	
Mental Health/Mental Retardation Services									
<u>Tobacco Settlement</u>									
Regular Appropriations	900,000	900,000		800,000	800,000		800,000	800,000	
Reserve Spending									
TOTAL	900,000	900,000		800,000	800,000		800,000	800,000	
Public Health									
<u>Tobacco Settlement</u>									
Regular Appropriations	16,495,800	16,495,800		14,000,900	14,000,900		14,721,100	14,721,100	
Reserve Spending	2,651,900	2,651,900							
TOTAL	19,147,700	19,147,700		14,000,900	14,000,900		14,721,100	14,721,100	
Human Support Services									
<u>Tobacco Settlement</u>									
Regular Appropriations				100,000	100,000		100,000	100,000	
Reserve Spending									
TOTAL				100,000	100,000		100,000	100,000	
Community Based Services									
<u>Tobacco Settlement</u>									
Regular Appropriations	7,259,400	7,259,400		6,970,400	6,970,400		7,420,400	7,420,400	
Reserve Spending	127,400	127,400							
TOTAL	7,386,800	7,386,800		6,970,400	6,970,400		7,420,400	7,420,400	

HOUSE BUDGET REPORT - 2006 REGULAR SESSION OF THE GENERAL ASSEMBLY

Summary of Tobacco Settlement Appropriations

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference	Branch Budget	House Budget	Difference
I - Justice and Public Safety Cabinet									
Justice Administration									
<u>Tobacco Settlement</u>									
Regular Appropriations	2,071,600	2,071,600		1,816,800	1,816,800		1,923,400	1,923,400	
Reserve Spending	1,979,800	1,979,800							
TOTAL	4,051,400	4,051,400		1,816,800	1,816,800		1,923,400	1,923,400	
K - Postsecondary Education									
Council on Postsecondary Education									
<u>Tobacco Settlement</u>									
Regular Appropriations	5,052,700	5,052,700		4,431,200	4,431,200		4,691,200	4,691,200	
Reserve Spending									
TOTAL	5,052,700	5,052,700		4,431,200	4,431,200		4,691,200	4,691,200	
Kentucky Higher Education Assistance Authority									
<u>Tobacco Settlement</u>									
Regular Appropriations	900,000	900,000		800,000	800,000		900,000	900,000	
Reserve Spending	63,700	63,700							
TOTAL	963,700	963,700		800,000	800,000		900,000	900,000	

Statewide Totals**Tobacco Settlement**

Regular Appropriations	91,875,900	91,875,900		88,800,000	88,800,000		94,000,000	94,000,000	
Reserve Spending	18,358,800	(8,641,200)	(27,000,000)	2,796,500	6,796,500	4,000,000	9,508,700	12,508,700	3,000,000
TOTAL	110,234,700	83,234,700	(27,000,000)	91,596,500	95,596,500	4,000,000	103,508,700	106,508,700	3,000,000

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Special Parts

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HOUSE REPORT

The House deletes the following language provisions in their entirety:

"PART XII

LEGAL NOTICES

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 424.180 is amended to read as follows:

Any advertisement which a state officer, department or agency is required by law to have published shall, if intended to give statewide notice, be published in such newspaper or newspapers, to be designated by the Finance and Administration Cabinet, as will provide reasonable statewide coverage, *unless the Finance and Administration Cabinet approves an alternative and cost-effective method of delivery*. If the advertisement particularly affects a local area it shall be published, for each county in the area, in a newspaper qualified under KRS 424.120 to publish advertisements for such county, *unless the Finance and Administration Cabinet approves an alternative and cost-effective method of delivery*. The latter publication shall be in addition to the former, if the advertisement affects the state at large as well as the local area."

"PART XIV

HOME INCARCERATION

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 532.260 is amended to read as follows:

- (1) Any Class C or Class D felon who is serving a sentence in a state-operated prison, *contract facility, or county jail* shall, at the discretion of the commissioner, be eligible to serve the remainder of his or her sentence outside the walls of the detention facility under terms of home incarceration using an approved monitoring device as defined in KRS 532.200, if the felon:

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- (a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony as defined by the Department of Corrections classification system; or
- 2. Has not been convicted of, pled guilty to, or entered an Alford plea to a sex crime as defined in KRS 17.500;
- (b) Has ninety (90)~~sixty (60)~~ days or less to serve on his or her sentence;
- (c) Has voluntarily participated in a discharge planning process with the department to address his or her:
 - 1. Education;
 - 2. Employment, technical, and vocational skills; and
 - 3. Housing, medical, and mental health needs; and
- (d) Has needs that may be adequately met in the community where he or she will reside upon release.
- (2) A person who is placed under terms of home incarceration pursuant to subsection (1) of this section shall remain in the custody of the Department of Corrections. Any unauthorized departure from the terms of home incarceration may be prosecuted as an escape pursuant to KRS Chapter 520 and shall result in the person being returned to prison.
- (3) The Department of Corrections shall promulgate administrative regulations to implement the provisions of this section."

"PART XV

PREVAILING WAGE

Notwithstanding KRS 48.310, the following statutes are amended to read as follows or repealed and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

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1. The Governor.
 2. Lieutenant Governor.
 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
 4. Department of Law.
 - (a) Attorney General.
 5. Department of the Treasury.
 - (a) Treasurer.
 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (b) Department for Libraries and Archives.

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- (c) Kentucky Educational Television.
- (d) Kentucky Commission on the Deaf and Hard of Hearing.
- (e) Operations and Development Office.
- (f) Board of Directors for the Center for School Safety.
- 3. Environmental and Public Protection Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.

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5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas Conservation.
7. Office of Mine Safety and Licensing.
8. Division of Forestry.
9. Division of Conservation.
- (d) Department of Public Protection.
 1. Office of the Commissioner.
 2. Division of Administrative Services.
 3. Crime Victims Compensation Board.
 4. Board of Claims.
 5. Board of Tax Appeals.
 6. Kentucky Boxing and Wrestling Authority.
 7. Kentucky Horse Racing Authority.
 8. Kentucky Public Service Commission.
 9. Office of Alcoholic Beverage Control.
 10. Office of Charitable Gaming.
 11. Office of Financial Institutions.
 12. Office of Housing, Buildings and Construction.
 13. Office of Insurance.
- (e) Department of Labor.
 1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. ~~Prevailing Wage Review Board.~~
 10. Kentucky Employees Insurance Association.
 - 10~~11~~. Apprenticeship and Training Council.

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- ~~11~~~~12~~. State Labor Relations Board.
 - ~~12~~~~13~~. Workers' Compensation Advisory Council.
 - ~~13~~~~14~~. Workers' Compensation Nominating Commission.
 - ~~14~~~~15~~. Employers' Mutual Insurance Authority.
 - ~~15~~~~16~~. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 - 1. Office of Transportation Enhancement Programs.
 - 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Public Affairs.
 - 3. Office of Transportation Delivery.
 - 4. Office for Business and Occupational Development.
 - 5. Office of Budget and Fiscal Management.
 - 6. Office of Legal Services.
 - 7. Office of Inspector General.
 - 8. Office of the Transportation Operations Center.
 - 9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.

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- (c) Department of Financial Incentives.
- (d) Department for Existing Business Development.
- (e) Department for Regional Development.
- (f) Tobacco Research Board.
- (g) Kentucky Economic Development Finance Authority.
- (h) Office of Research and Information Technology.
- (i) Department of Innovation and Commercialization for a Knowledge Based Economy.
- (j) Office of Legal Services.
- (k) Commission on Small Business Advocacy.
- 6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
- 7. Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.

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- (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) Eastern Kentucky Exposition Center Corporation.
 - (u) State Board for Proprietary Education.
 - (v) Kentucky Higher Education Assistance Authority.
 - (w) Kentucky River Authority.
 - (x) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.

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- (4) Division of Facilities Management.
- (5) Division of Project Administration.
- (6) Division of Customer Services.
- (7) Division of Recreation.
- (8) Division of Golf Courses.
- (9) Division of Food Services.
- (10) Division of Rangers.
- (11) Division of Eastern Parks.
- (12) Division of Southern Parks.
- (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.

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- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of Purchase and Procurement.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
- (q) Coal Marketing and Export.
- (r) Kentucky Coal Council.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- 9. Cabinet for Workforce Development:
 - (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.

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- (f) Kentucky Technical Education Personnel Board.
- (g) The Foundation for Adult Education.
- (h) Department for Training and Reemployment.
- (i) Office of General Counsel.
- (j) Office of Communication Services.
- (k) Office of Workforce Partnerships.
- (l) Office of Workforce Analysis and Research.
- (m) Office of Budget and Administrative Services.
- (n) Office of Technology Services.
- (o) Office of Quality and Human Resources.
- (p) Unemployment Insurance Commission.

10. Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department for Personnel Administration.
- (c) Office for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Office of Government Training.
- (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Education Professional Standards Board.
- 9. Office of Minority Empowerment.

Section 2. KRS 99.480 is amended to read as follows:

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Before the agency enters into any contracts for work of demolition, grading, clearing or construction of utilities or other facilities or site improvements, it shall satisfy all requirements of the law, applicable to similar contracts of the community, relating to the advertisement and acceptance of bids, execution of bonds, and award of contracts. ~~[The agency shall also attach to and make a part of the specifications for a contract for said work, a schedule of prevailing wages, and shall conform to all of the requirements of KRS 337.510 to 337.540, inclusive.]~~

Section 3. KRS 227.487 is amended to read as follows:

Except where other rules are adopted by a city or county, the following reporting and fee requirements shall apply to electrical inspections of residential buildings and single-family dwellings:

- (1) The inspector shall complete a report for each inspection. One (1) copy of the report shall be given to the owner of the electrical installation or his representative at the time the inspection fees are paid. A second copy of the report shall be sent to the Office of Housing, Buildings and Construction no later than one (1) week after the inspection is completed. The report shall include, but is not limited to, the following:
 - (a) The address of the dwelling inspected;
 - (b) The number of rooms, number of receptacles and number of switch boxes inspected;
 - (c) Number of code violations, if any;
 - (d) A description of each code violation, and recommended change to correct the violation;
 - (e) The date and time of day the inspection commenced;
 - (f) The time, in hours and minutes, required for the inspection;
 - (g) The number of miles and hours and minutes of travel time incurred by the inspector for that inspection, if mileage and travel charges are added to the inspection fee;
 - (h) The amount charged for the inspection, separated into an amount for mileage, if any, and the amount for travel time, if any, and the amount charged for the actual inspection.
- (2) The maximum inspection fee shall be an amount equal to the wage paid to a majority of ~~prevailing wage for a~~ master electricians ~~electrician~~ in the region in which the inspection is made, multiplied by the time required to conduct the inspection. This rate shall not be applied to travel time to and from the inspection.
- (3) An inspector may charge, in addition to the inspection fee, an amount for necessary travel to and from the inspection site. The mileage rate charged shall not exceed the amount per mile allowed to state employees, and the inspector shall charge no more than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are made during one (1) trip, then the cost of travel shall be divided between the inspections made. In no case shall an inspector charge more than once for the same trip, or charge for mileage or time not actually expended.

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- (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety satisfactory to the Office of Housing, Buildings and Construction.
 - (5) The Office of Housing, Buildings and Construction shall design reporting forms which meet the requirements of subsection (1) of this section, and provide these forms to electrical inspectors. The office shall adopt regulations to administer the requirements of this section.
 - (6) Nothing in this section is intended to limit the right of cities or counties to set fees or adopt rules for electrical inspections which are different from those specified in subsections (1), (2), (3), or (4) of this section.
- Section 4. KRS 337.010 is amended to read as follows:
- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor;
 - (b) "Office" means the Office of Workplace Standards in the Department of Labor;
 - (c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;
 - (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) "Employee" is any person employed by or suffered or permitted to work for an employer.
 - (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
 - (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 - 1. Any individual employed in agriculture;
 - 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the executive director;
 - 3. Any individual employed by the United States;
 - 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

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5. Any individual classified and given a certificate by the executive director showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the executive director. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the executive director and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care.
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction

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with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

- (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
- (d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
- (e) "U.S.C." means the United States Code.

~~[(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:~~

- ~~(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;~~
- ~~(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;~~
- ~~(c) 1. "Locality" shall be determined by the executive director. The executive director may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The executive director shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and~~
 - ~~2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;~~
- ~~(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction~~

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~~of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and~~

~~(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.~~

~~(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.]~~

Section 5. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

- (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.
- (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.
- (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.
- (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation.
- (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and each day that the failure continues shall be deemed a separate offense.
- (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the executive director or his authorized representative in the performance of his duties under KRS 337.295, or

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fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the executive director or his authorized representative shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9) and each day the employer violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

- (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his employer, to the executive director, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) ~~Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).~~
- (12) ~~Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.~~
- (13) ~~Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in~~

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~~damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.~~

~~(14)}~~ A person shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

- ~~(a) Made any complaint to his employer, the executive director, or any other person; or~~
- ~~(b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or~~
- ~~(c) Testified, or is about to testify, in any such proceedings.~~

~~Section 6. KRS 337.420 is amended to read as follows:~~

- ~~(1) "Employee" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.~~
- ~~(2) "Employer" means a person who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.~~
- ~~(3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the executive director in regulations issued under KRS 337.420 to 337.433 and 337.990(11)(14).~~
- ~~(4) "Employ" includes to suffer or permit to work.~~
- ~~(5) "Occupation" includes any industry, trade, business, or branch thereof, or any employment or class of employment.~~
- ~~(6) "Executive director" means the executive director of the Office of Workplace Standards under the direction and supervision of the commissioner of the Department of Labor.~~
- ~~(7) "Person" includes one (1) or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.~~

~~Section 7. KRS 337.423 is amended to read as follows:~~

- ~~(1) No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, shall not be included within this prohibition. Nothing in KRS 337.420 to 337.433 and 337.990(11)(14) shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.990(11)(14) and when the employer files with the executive director of the Office of Workplace Standards a statement that the employer is covered by the federal Fair Labor Standards Act of 1938, as amended.~~

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- (2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~) shall not, in order to comply with it, reduce the wage rates of any employee.
- (3) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~).
- (4) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~).

Section 8. KRS 337.425 is amended to read as follows:

- (1) For this purpose, the executive director, or his authorized representative, may enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain other information necessary to the administration and enforcement of KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~).
- (2) The executive director or his authorized representative may examine witnesses under oath, and require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~). If a person fails to attend, testify or produce documents under or in response to a subpoena, the Circuit Court in the judicial circuit where the hearing is being held, on application of the executive director or his representative, may issue an order requiring the person to appear before the executive director or his authorized representative, or to produce documentary evidence, and any failure to obey the order of the court may be punished by the court as contempt.
- (3) The executive director may endeavor to eliminate pay practices unlawful under KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~) by informal methods of conference, conciliation and persuasion, and supervise the payment of wages owing to any employee under KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~).
- (4) The executive director may issue regulations not inconsistent with the purpose of KRS 337.420 to 337.433 and 337.990(**11**)(~~14~~), necessary or appropriate to carry out its provisions.

Section 9. KRS 337.427 is amended to read as follows:

- (1) Any employer who violates the provisions of KRS 337.423 shall be liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits under subsection (2) of this section, up to an additional equal amount as liquidated damages.
- (2) Action to recover the liability may be maintained in any court of competent jurisdiction by any one (1) or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in the action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

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- (3) An agreement by any employee to work for less than the wage to which the employee is entitled under KRS 337.420 to 337.433 and 337.990(11){(14)} shall not be a bar to any such action, or to a voluntary wage restitution of the full amount due under KRS 337.420 to 337.433 and 337.990(11){(14)}.
- (4) At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under KRS 337.420 to 337.433 and 337.990(11){(14)}, the executive director may bring any legal action necessary in behalf of the employee to collect the claim for unpaid wages. The executive director shall not be required to pay the filing fee, or other costs, in connection with the action. The executive director shall have power to join various claims against the employer in one (1) cause of action.
- (5) In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of KRS 337.420 to 337.433 and 337.990(11){(14)}.
- (6) The executive director may on his own motion petition any court of competent jurisdiction to restrain violations of KRS 337.423, and petition for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of KRS 337.420 to 337.433 and 337.990(11){(14)}.

Section 10. KRS 337.430 is amended to read as follows:

Court action under KRS 337.420 to 337.433 and 337.990(11){(14)} may be commenced no later than six (6) months after the cause of action occurs.

Section 11. KRS 337.433 is amended to read as follows:

Every person subject to KRS 337.420 to 337.433 and 337.990(11){(14)} shall keep an abstract or copy of KRS 337.420 to 337.433 and 337.990(11){(14)} posted in a conspicuous place in or about the premises where any employee is employed. Employers shall be furnished copies or abstracts of KRS 337.420 to 337.433 and 337.990(11){(14)} by the state on request without charge.

Section 12. KRS 336.015 is amended to read as follows:

- (1) The commissioner of the Department of Labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the Labor Cabinet.
- (2) The Department of Labor shall consist of the Office of Occupational Safety and Health, the Office of Labor Management Relations and Mediation, the Office of Workplace Standards, and the Division of Administrative Services. Each of the offices shall be headed by an executive director and each division shall be headed by a division director. Executive directors and division directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050.
- (3) The following agencies are attached to the department for administrative purposes only:
 - (a) Kentucky Labor Management Advisory Council;
 - (b) Kentucky Employees' Insurance Association;

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- (c) State Labor Relations Board;
- (d) Workers' Compensation Funding Commission;
- (e) Workers' Compensation Advisory Council;
- (f) Occupational Safety and Health Standards Board;
- (g) ~~Prevailing Wage Review Board;~~
- ~~(h)~~ Apprenticeship and Training Council;
- ~~(h)~~~~(i)~~ Employers' Mutual Insurance Authority;
- ~~(i)~~~~(j)~~ Workers' Compensation Nominating Commission; and
- ~~(j)~~~~(k)~~ Office of Workers' Claims.

Section 13. KRS 224.10-020 is amended to read as follows:

- (1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection, a Department of Labor, and a Department of Public Protection. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.
- (2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, an Office of Technical and Administrative Support, a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas Conservation, and an Office of Mine Safety and Licensing. There shall be established within the Office of Mine Safety and Licensing a Division of Safety Inspection and Licensing, a Division of Explosives and Blasting, a Division of Investigation, and a Division of Safety Analysis, Training, and Certification. Each division shall be headed by a director and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050 and, as appropriate, KRS 353.530, except for the director of the Division of Conservation, who shall be appointed in accordance with KRS 146.100. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
- (3)
 - (a) There is established within the Department of Labor an Office of Occupational Safety and Health, an Office of Labor-Management Relations and Mediation, an Office of Workplace Standards, and a Division of Administrative Services. Each division shall be headed by a director and each office shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. The directors and the executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
 - (b) The following agencies are attached to the Department of Labor for administrative purposes only:

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1. Kentucky Labor Management Advisory Council;
 2. Kentucky Employees' Insurance Association;
 3. State Labor Relations Board;
 4. Workers' Compensation Funding Commission;
 5. Workers' Compensation Advisory Council;
 6. Occupational Safety and Health Standards Board;
 7. ~~Prevailing Wage Review Board;~~
 8. ~~Apprenticeship and Training Council;~~
 - 8~~9~~. Employers' Mutual Insurance Authority;
 - 9~~10~~. Workers' Compensation Nominating Commission; and
 - 10~~11~~. Office of Workers' Claims.
- (4) (a) There is established within the Department of Public Protection a Division of Administrative Services, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Buildings and Construction, an Office of Charitable Gaming, and an Office of Alcoholic Beverage Control. Each division shall be headed by a division director and each office shall be headed by an executive director. Division directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. Division directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
- (b) The following agencies are attached to the Department of Public Protection for administrative purposes only:
1. Kentucky Public Service Commission;
 2. Crime Victims Compensation Board;
 3. Board of Claims;
 4. Board of Tax Appeals;
 5. Kentucky Boxing and Wrestling Authority; and
 6. Kentucky Horse Racing Authority.

Section 14. The following KRS sections are repealed:

- 337.505 Definition of "prevailing wage," fringe benefits included.
- 337.510 Public authority's duties as to inclusion of prevailing wage in proposals and contracts.
- 337.512 Duties of individual officers with respect to prevailing wage law.
- 337.520 Determination of prevailing wages -- Administrative regulations -- Filing wage contract.

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- 337.522 Hearings -- Publication of determination -- Revisions -- Prevailing wage review boards attached to Department of Labor for administrative purposes.
- 337.524 Which rates to apply while review is pending.
- 337.525 Judicial review.
- 337.530 Contractor to pay prevailing wages and post rates -- Payroll records -- On-site inspections.
- 337.540 Limitation of working hours -- Exceptions -- Overtime.
- 337.548 Injunction of violation of prevailing wage law.
- 337.550 Office to aid in enforcement -- Remedies of laborer."

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Part XII - Aviation

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part XIII, Aviation, includes the following directive:

"Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 183.120 is amended to read as follows:

- (1) The cabinet may acquire or dispose by contract, purchase, lease, donation, condemnation or otherwise, airports, buildings, runways, grounds and other facilities suitable for airport purposes and the proper safeguards to flying where such acquisition or disposal shall be in the public interest.
- (2) The cabinet may make additions and improvements to such airports, or facilities and either alone or with the cooperation of others provide personnel, heat, light, water, fuel, telephone service, drainage, runways, fueling facilities, radio and navigation facilities, and other costs of operation and maintenance, including insurance, and may bear the expense of removal or change of obstructions that menace air travel.
- (3) The cabinet may enter into contracts of lease for land or facilities to which title is vested in the Commonwealth with any city, or cities, county, or counties, governmental unit, political subdivision, airboard or person for the furtherance of the purposes of this chapter. All rents or revenues derived from such contracts of lease shall become the property of the cabinet to be expended by it in carrying out the purposes of this chapter.
- (4) The cabinet may give such advice and assistance, including financial aid, engineering and technical assistance within the limits of its resources as it deems advisable, to enable any governmental unit or board to acquire, construct, expand, maintain and operate airports or otherwise assist in the development of aeronautics within their limits. Such aid may include the exercise of the cabinet's power of eminent domain, if such usage is requested by the governmental unit or board. Where such eminent domain powers are utilized, title to acquire property may vest in the governmental unit.
- (5) *The cabinet may utilize up to (1%) of its annual Road Fund appropriations to provide the above authorized financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21).*

HOUSE REPORT

The House deletes the entire State/Executive Branch Budget Bill, Part XIII, language provision relating to Aviation and creates a new Part XII language provision as follows:

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Part XII - Aviation

"Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 183.120 is amended to read as follows:

- (1) The cabinet may acquire or dispose by contract, purchase, lease, donation, condemnation or otherwise, airports, buildings, runways, grounds and other facilities suitable for airport purposes and the proper safeguards to flying where such acquisition or disposal shall be in the public interest.
- (2) The cabinet may make additions and improvements to such airports, or facilities and either alone or with the cooperation of others provide personnel, heat, light, water, fuel, telephone service, drainage, runways, fueling facilities, radio and navigation facilities, and other costs of operation and maintenance, including insurance, and may bear the expense of removal or change of obstructions that menace air travel.
- (3) The cabinet may enter into contracts of lease for land or facilities to which title is vested in the Commonwealth with any city, or cities, county, or counties, governmental unit, political subdivision, airboard or person for the furtherance of the purposes of this chapter. All rents or revenues derived from such contracts of lease shall become the property of the cabinet to be expended by it in carrying out the purposes of this chapter.
- (4) The cabinet may give such advice and assistance, including financial aid, engineering and technical assistance within the limits of its resources as it deems advisable, to enable any governmental unit or board to acquire, construct, expand, maintain and operate airports or otherwise assist in the development of aeronautics within their limits. Such aid may include the exercise of the cabinet's power of eminent domain, if such usage is requested by the governmental unit or board. Where such eminent domain powers are utilized, title to acquire property may vest in the governmental unit.
- (5) ***The cabinet may utilize an amount not to exceed six million (\$6,000,000) of its annual Road Fund appropriations in each fiscal year to provide the above authorized financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21).***

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Part XIII - Income Tax

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part XVI, Income Tax, includes the following directive:

"Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 141.040 is amended to read as follows:

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to (h) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation computed under this section at the rates specified in this section:
 - (a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 287.135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with

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Part XIII - Income Tax

which it has contracted for printing, provided that:

1. The property consists of the final printed product, or copy from which the printed product is produced; and
2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b).

(2) For tax years ending before January 1, 1990, the following rates shall apply:

- (a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
- (b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000), but not in excess of fifty thousand dollars (\$50,000);
- (c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
- (d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
- (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).

(3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:

- (a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
- (b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);
- (c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess

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of one hundred thousand dollars (\$100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).

(4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) For taxable years beginning~~on or~~ after **December 31, 2004, and before** January 1, ~~2007~~~~[2005]~~, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection ~~(7)~~~~[(6)]~~ of this section. The tax computed under this subsection is as follows:

(a) 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;

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2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
3. Seven percent (7%) of taxable net income over one hundred thousand dollars (\$100,000) ~~for taxable years beginning on or after January 1, 2005, and prior to January 1, 2007; and~~
4. ~~For taxable years beginning on or after January 1, 2007, six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000); or~~

(b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:

1. Nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's gross receipts. For purposes of this paragraph, "gross receipts" means the numerator of the sales factor under the provisions of KRS 141.120(8)(c); or
2. Seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits.

(6) *For taxable years beginning on or after January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:*

- (a) *1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;*
- 2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand*

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dollars (\$100,000); and

3. Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000); or

(b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:

1. a. If the corporation's gross receipts are two million dollars (\$2,000,000) or less, the alternative minimum calculation shall be zero;

b. If the corporation's gross receipts are greater than two million dollars (\$2,000,000) but less than ten million dollars (\$10,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's gross receipts, reduced by an amount equal to one thousand nine hundred dollars (\$1,900) multiplied by a fraction, the numerator of which is ten million dollars (\$10,000,000) less the amount of the corporation's gross receipts for the taxable year, and the denominator of which is eight million dollars (\$8,000,000);

c. If the corporation's gross receipts are equal to or greater than ten million dollars (\$10,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's gross receipts; or

2. Seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits. The entire amount of the corporation's gross receipts shall be considered when making the gross profits calculation.

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3. For purposes of this paragraph, "gross receipts" means the numerator of the sales factor under the provisions of KRS 141.120(8)(c).

(7) A minimum of one hundred seventy-five dollars (\$175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.

(8)~~**(7)**~~ The alternative minimum calculation portion of the tax computation provided in subsections~~[subsection]~~ **(5) and (6)** of this section shall not apply to:

- (a) Public service corporations subject to tax under KRS 136.120;
- (b) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
- (c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390; and
- (d) An alcohol production facility as defined in KRS 247.910.

(9)~~**(8)**~~ (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

- (b) Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b) to (h) that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net

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income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

- (c) Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.
- (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

~~(10)~~~~(9)~~ (a) To the extent that a corporation identified in KRS 141.010(24)(b) to (h) is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:

1. Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;
2. Result in an increase of the amount of credit allowable under KRS 141.420; or
3. Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).

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(b) The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.

Section 2. KRS 141.011 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, the net operating loss carryback-carryforward deduction, including casualty loss, allowed under Section 172 of the Internal Revenue Code shall apply only to such losses incurred in taxable years beginning after December 31, 1979, and no such loss shall be carried back to taxable years beginning before January 1, 1980. Any casualty loss carryforward authorized by this section as it existed before January 1, 1980, may be carried forward as an itemized deduction until it has been fully deducted.
- (2) The net operating loss carryback deduction shall not be allowed for losses incurred for taxable years beginning on or after January 1, 2005.
- (3) For taxable years when the tax due under KRS 141.040 is based on the alternative minimum calculation provided in KRS 141.040~~[(5)(b)]~~, any net operating loss carryforward deduction that is utilized for the taxable year shall be the amount of taxable net income that exceeds the taxable net income equivalent of the alternative minimum calculation. For purposes of this subsection, "taxable net income equivalent" means the taxable net income that would generate an income tax equal to the alternative minimum calculation liability computed under KRS 141.040~~[(5)(b)]~~.
- (4) For taxable years beginning on or after January 1, 2005, the net operating loss carryforward deduction of a corporation shall be reduced by the amount of distributive share income, loss, and deduction distributed to an individual or general partnership as defined in KRS 141.206.

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- (5) The portion of a net operating loss that is not used to offset the income of an affiliate according to the limits in KRS 141.200(11) shall be available for carryforward, subject to the limitations contained in this section.

Section 3. KRS 141.200 is amended to read as follows:

- (1) Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.
- (2) As used in subsections (2) to (7) of this section, unless the context requires otherwise:
- (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;
 - (b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;
 - (c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter;
 - (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
 - (e) "Election period" means the ninety-six (96) month period provided for in subsection (4)(d) of this section.

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- (3) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (4) of this section.
- (4) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.
- (b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040~~[(5)(b)]~~. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
- (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return including extensions for the first taxable year for which the election is made.
- (d) Notwithstanding subsections (9) to (15) of this section, any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion

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of the taxable year in which the ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

- (5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (6) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
- (7) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

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(8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005.

(9) As used in subsections (9) to (14) of this section:

- (a) 1. "Affiliated group" means one (1) or more chains of includible corporations connected through stock ownership, membership interest, or partnership interest with a common parent corporation if:
 - a. The common parent owns directly an ownership interest meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
 - b. An ownership interest meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
- 2. The ownership interest of any corporation meets the requirements of this paragraph if the ownership interest encompasses at least eighty percent (80%) of the voting power of all classes of ownership interests and has a value equal to at least eighty percent (80%) of the total value of all ownership interests;
- (b) "Common parent corporation" means the member of an affiliated group that meets the ownership requirement of paragraph (a)1. of this subsection;
- (c) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and is related to a member of an affiliated group through stock ownership;
- (d) "Includible corporation" means any corporation that is doing business in this state except:
 - 1. Corporations exempt from corporation income tax under KRS 141.040(1)(a) to (h);

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2. Foreign corporations;
 3. Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year;
 4. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
 5. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
 6. A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code;
 7. An S corporation as defined in Section 1361(a) of the Internal Revenue Code;
 8. Any corporation that realizes a net operating loss whose Kentucky property, payroll, and sales factors pursuant to KRS 141.120(8) are de minimis; and
 9. Any corporation for which the sum of the property, payroll and sales factors described in KRS 141.120(8) is zero;
- (e) "Ownership interest" means stock, a membership interest in a limited liability company, or a partnership interest in a limited partnership or limited liability partnership;
- (f) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code; and
- (g) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a

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single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter.

- (10) Every corporation doing business in this state except those exempt from taxation under KRS 141.040(1)(a) to (h) shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year:
- (a) An includible corporation in an affiliated group;
 - (b) A common parent corporation doing business in this state;
 - (c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation; or
 - (d) A qualified real estate investment trust subsidiary that is included in the return filed by the real estate investment trust parent.
- (11) (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.
- (b) An affiliated group required to file a consolidated return under this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120. Includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in accordance

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with KRS 141.011. The Department of Revenue shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040~~[(5)(b)]~~. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.

- (12) Each includible corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any includible corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
- (14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1)

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or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(15) For any taxable year ending on or after December 31, 1995, except as provided under this section and KRS 141.205, nothing in this chapter shall be construed as allowing or requiring the filing of:

- (a) A combined return under the unitary business concept; or
- (b) A consolidated return.

(16) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(17) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December, 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(18) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.

(19) This section shall not be construed to limit or otherwise impair the department's authority under KRS 141.205.

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Section 4. KRS 141.347 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;
 - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;
 - (c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070; and
 - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) and (6)(b).
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:
 - (a) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project; and
 - (b) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits attributable to an economic development project.
 - (c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax

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computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.

- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a general partnership not subject to tax under KRS 141.040 or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).
- (b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners or beneficiaries.
- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.
- (d) If the tax computed in this section exceeds the credit, the excess shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.
- (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.

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- (6) If the economic development project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky

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gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 5. KRS 141.390 is amended to read as follows:

- (1) As used in this section:
 - (a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;
 - (b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials;

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- (c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner;
 - (d) "Recapture period" means:
 - 1. For qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from that date; or
 - 2. For qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from that date;
 - (e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code;
 - (f) "Baseline tax liability" means the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005; and
 - (g) "Major recycling project" means a project where the taxpayer:
 - 1. Invests more than ten million dollars (\$10,000,000) in recycling or composting equipment to be used exclusively in this state;
 - 2. Has more than seven hundred fifty (750) full-time employees with an average hourly wage of more than three hundred percent (300%) of the federal minimum wage; and
 - 3. Has plant and equipment with a total cost of more than five hundred million dollars (\$500,000,000).
- (2) (a) A taxpayer that purchases recycling or composting equipment to be used exclusively within this state for recycling or

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composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040~~[(5)(b)]~~, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(b) For taxable years beginning after December 31, 2004, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040~~[(5)(b)]~~, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The credit described in this paragraph shall be limited to a period of ten (10) years commencing with the approval of the recycling credit application. In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:

1. Fifty percent (50%) of the excess of the total of each tax liability over the baseline tax liability of the taxpayer;
or
2. Two million five hundred thousand dollars (\$2,500,000), whichever is less.

(c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection.

(d) A taxpayer shall not be permitted to utilize a credit computed under paragraph (a) of this subsection and a credit

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computed under paragraph (b) of this subsection on the same recycling or composting equipment.

- (3) Application for a tax credit shall be made to the Department of Revenue on or before the first day of the seventh month following the close of the taxable year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Department of Revenue may require. The Department of Revenue shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section. Any corporation as defined in KRS 141.010(24)(b) to (h) may elect to claim the balance of a recycling credit approved prior to March 18, 2005, against its tax liability imposed under KRS 141.040. The election shall be binding on the taxpayer and the Department of Revenue until the balance of the recycling credit is used.
- (4) Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section. If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs. If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.
- (5) The total tax credit allowable under subsection (2) of this section for equipment that is sold, transferred, or otherwise disposed of

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before the end of the recapture period shall be adjusted as follows:

- (a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:
 - 1. One (1) year or less after the purchase, no credit shall be allowed.
 - 2. Between one (1) year and two (2) years after the purchase, twenty percent (20%) of the total allowable credit shall be allowed.
 - 3. Between two (2) and three (3) years after the purchase, forty percent (40%) of the total allowable credit shall be allowed.
 - 4. Between three (3) and four (4) years after the purchase, sixty percent (60%) of the total allowable credit shall be allowed.
 - 5. Between four (4) and five (5) years after the purchase, eighty percent (80%) of the total allowable credit shall be allowed.
- (b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:
 - 1. One (1) year or less after the purchase, no credit shall be allowed.
 - 2. Between one (1) year and two (2) years after the purchase, thirty-three percent (33%) of the total allowable credit shall be allowed.
 - 3. Between two (2) and three (3) years after the purchase, sixty-seven percent (67%) of the total allowable credit shall be allowed.

- (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or transfers due merely to a change in business

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ownership or organization as long as the equipment continues to be used exclusively in recycling or composting, or transactions to which Section 381(a) of the Internal Revenue Code applies.

- (7) The Department of Revenue may promulgate administrative regulations to carry out the provisions of this section.

Section 6. KRS 141.400 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;
 - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010;
 - (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090; and
 - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:
- (a) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project;
 - (b) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS

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141.010(14), gross receipts, or Kentucky gross profits, ~~[as the case may be,]~~ excluding net income, gross receipts, or Kentucky gross profits attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a general partnership not subject to tax under KRS 141.040, or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner or beneficiary.

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- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a partnership or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and

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- (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 7. KRS 141.401 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

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- (b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010;
 - (c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079; and
 - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) and (6)(b).
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:
- (a) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~[whichever of KRS]~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~[as the case may be,]~~ including income, gross receipts, or Kentucky gross profits from an economic development project; and
 - (b) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~[whichever of KRS]~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~[as the case may be,]~~ excluding net income, gross receipts, or Kentucky gross profits attributable to an economic development project.
 - (c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
- (4) Notwithstanding any other provisions of this chapter, an approved company that is a general partnership not subject to the tax

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imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), as follows:

- (a) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners or beneficiaries.
 - (b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
 - (c) If the tax computed in this section exceeds the credit, the excess shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.
 - (d) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and

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losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and

- (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.

- (7) If the economic development project is an expansion to a previously existing facility:

- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and

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activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.

- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

Section 8. KRS 141.403 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;
 - (b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;
 - (c) "Tax credit" means the tax credit allowed in KRS 154.26-090; and
 - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) and (6)(b).
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:
- (a) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040 ~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11) or taxable net income as defined by

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KRS 141.010(14), gross receipts, or Kentucky gross profits,~~[as the case may be,]~~ including income, gross receipts, or Kentucky gross profits from an economic revitalization project;

(b) Compute the ~~[income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~[whichever of KRS]~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits,~~[as the case may be,]~~ excluding net income, gross receipts, or Kentucky gross profits attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed KRS 141.040 shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.

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- (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.
- (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic revitalization project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic revitalization project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the

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facility and overhead expenses apportioned to the facility, and the net income attributable to the economic revitalization project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic revitalization project by a formula approved by the Department of Revenue; and

- (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility. Gross receipts or Kentucky gross profits attributable to the economic revitalization project for purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic revitalization project pursuant to a formula approved by the Department of Revenue.

- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, gross receipts, or Kentucky gross profits from the facility at which the economic revitalization project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic revitalization project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

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Section 9. KRS 141.405 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" has the same meaning as set forth in KRS 154.12-2084;
 - (b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084; and
 - (c) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) and (6)(b).
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3)
 - (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall compute the ~~tax~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040 ~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits ~~[as the case may be]~~;
 - (b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and
 - (c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).
- (4)
 - (a) In the case of an approved company which is a general partnership not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned among the partners thereof at the same ratio as the partners' distributive shares of income are determined for the tax year

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during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of the tax credit apportioned to each partner that may be claimed in any tax year of the partner shall be determined in accordance with KRS 154.12-2086.

(5) (a) In the case of an approved company that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with KRS 154.12-2086.

(6) The Department of Revenue may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

Section 10. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150; and

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- (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) and (6)(b).
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:
- (a) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from an economic development project;
 - (b) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ excluding net income, gross receipts, or Kentucky gross profits attributable to an economic development project; and
 - (c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a general partnership not subject to the tax imposed by KRS 141.040 or a trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

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- (b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the general partnership or trust, and shall be paid on behalf of the partners or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
 - (d) If the tax computed herein exceeds the credit, the excess shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and

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- (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net

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income, gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.

- (9) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 11. KRS 141.410 is amended to read as follows:

As used in KRS 141.410 to 141.414, unless the context requires otherwise:

- (1) "Approved costs" means the costs incurred during the taxable year by a qualified farming operation for training and improving the skills of managers and employees involved in a networking project.
- (2) "Business network" means a formalized, collaborative mechanism organized by and operating among three (3) or more qualified farming operations, industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities.
- (3) "Food producing facilities" means establishments that manufacture or process foods and beverages for human consumption, and which are included under the three (3) digit NAICS code three hundred eleven (311).
- (4) "Networking project" means a project by which farmers and other entities involved in the production of food join together to

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form a network approved by the Cabinet for Economic Development for the purpose of producing or expanding the production of crops or livestock necessary for the establishment or expansion of secondary food-producing facilities in Kentucky.

- (5) "Qualified farming operation" means an individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, or institution, engaged in farming in Kentucky that provides raw materials for food-producing facilities in Kentucky, and that purchases new buildings or equipment, or that incurs training expenses, to support its participation in a networking project.
- (6) "NAICS code" means the classification system grouping business operations or enterprises as published in the North American Industry Classification System United States Manual published by Convergence Working Group and the United States Office of Management and Budget, 2002 edition.
- (7) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) or (6)(b).

Section 12. KRS 141.414 is amended to read as follows:

- (1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040~~[(1)]~~ shall:
 - (a) Compute the ~~the income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~ 141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~as the case may be,~~ including income, gross receipts, or Kentucky gross profits from the qualified farming operation's participation in a networking project.
 - (b) Compute the ~~the income~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~whichever of KRS~~

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141.040~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~[as the case may be,]~~ excluding net income, gross receipts, or Kentucky gross profits attributable to the qualified farming operation's participation in a networking project; and

(c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.

(2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.

(3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a partnership or trust.

(4) If the networking entity is a separate facility:

(a) Net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and

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losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the facility; and

- (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (1) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.

- (5) If the networking project is an expansion to a previously existing farming operation:

- (a) Net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the Department of Revenue; and
- (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (1) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

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- (6) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income, gross receipts, or Kentucky gross profits from the networking project, the approved farming operation shall determine net income, gross receipts, or Kentucky gross profits from its participation in the networking project using an alternative method approved by the Department of Revenue.
- (7) The Department of Revenue may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the Department of Revenue necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

Section 13. KRS 141.415 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" has the same meaning as set forth in KRS 154.34-010;
 - (b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010;
 - (c) "Tax credit" means the tax credit allowed in KRS 154.34-080; and
 - (d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b) **and (6)(b)**.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

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- (a) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~[whichever of KRS]~~ 141.040 ~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~[as the case may be,]~~ including income, gross receipts, or Kentucky gross profits from a reinvestment project;
 - (b) Compute the ~~the [income]~~ tax due at the applicable tax rates as provided by KRS 141.020 or ~~[whichever of KRS]~~ 141.040 ~~[(5)(a) or (b) applies]~~ on net income as defined by KRS 141.010(11), taxable net income as defined by KRS 141.010(14), gross receipts, or Kentucky gross profits, ~~[as the case may be,]~~ excluding net income, gross receipts, or Kentucky gross profits attributable to a reinvestment project; and
 - (c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.34-080.
- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a general partnership not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to a reinvestment project at the rates provided in KRS 141.020(2).
- (b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the general partnership or trust, and shall be

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paid on behalf of the partners or beneficiaries.

- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.34-080.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the general partnership or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the general partnership or trust in satisfaction of the tax liability of partners or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's or beneficiary's distributive share of net income or credit of a general partnership or trust.
- (6) If the reinvestment project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the reinvestment project is an expansion to a previously existing facility:

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- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment project by a formula approved by the Department of Revenue; and
 - (b) Gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross receipts or Kentucky gross profits directly attributable to the facility, and gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income or gross receipts from the facility at which the reinvestment project is located, the approved company shall determine net income or gross receipts from the reinvestment project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable income tax credit which an approved company

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may retain under KRS 154.34-010 to 154.34-100.

Section 14. KRS 141.420 is amended to read as follows:

- (1) (a) Every corporation identified in KRS 141.010(24)(b) to (h) that is doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its applicable federal return with the form prescribed and furnished by the department.
- (b) For a corporation filing a return under paragraph (a) of this subsection, the individual partner's, member's, or shareholder's distributive share of net income, gain, loss, or deduction shall be computed as nearly as practicable in a manner identical to that required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (2) (a) Resident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section.
- (b) Nonresident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section multiplied by the apportionment fraction in KRS 141.120(8).
- (3) (a) Resident and nonresident individuals who are members, shareholders, or partners of a corporation required to file a return under paragraph (a) of subsection (1) of this section shall be entitled to a nonrefundable credit against the tax imposed

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under KRS 141.020.

- (b) The credit determined under this subsection shall be the member's, shareholder's, or partner's proportionate share of the tax due from the corporation as determined under KRS 141.040, before the application of any credits identified in KRS 141.0205(4) and reduced by the required minimum imposed by KRS 141.040~~(6)~~(7).
 - (c) Notwithstanding the provisions of paragraph (a) of this subsection, for taxable years beginning after December 31, 2004, and before January 1, 2007, the portion of the credit computed under paragraph (b) of this subsection that exceeds the credit that would have been utilized if the corporation's income were taxed at the rates in KRS 141.020 shall be refundable. The refundable portion of the credit shall be the individual member's, shareholder's, or partner's proportionate share of the amount computed by multiplying the amount the corporation's income exceeds two hundred sixteen thousand six hundred dollars (\$216,600) by one percent (1%).
 - (d) The credit determined under paragraphs (a) and (b) of this subsection shall not operate to reduce the member's, shareholder's, or partner's tax due to an amount that is less than what would have been payable were the income attributable to doing business in this state by the corporation ignored.
- (4) For purposes of computing the basis of an ownership interest or stock in a corporation identified in KRS 141.010(24)(b) to (h), the basis attributable to a member, partner, or shareholder shall be adjusted by the distributive share of the items of net income, gain, loss and deduction as though the items had been passed through to the member, partner, or shareholder.
- (5) Except as otherwise provided in this chapter, distributions by or from a corporation shall be treated in the same manner as they are treated for federal tax purposes."

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HOUSE REPORT

The House concurs with the Branch with the following exception: The State/Executive Branch Budget Bill, Part XVI, Income Tax has been renumbered to Part XIII, Income Tax.

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Part XIV - Sales and Use Tax

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part XVII, Sales And Use Tax, includes the following directive:

"Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) The county clerk shall collect any applicable sales and use tax from the owner of the following tangible personal property at the time the property is offered for titling or first registration:**
 - (a) Recreational vehicles as defined in KRS 186.650;**
 - (b) Manufactured homes as defined in KRS 186.650;**
 - (c) Motorboats as defined in KRS 235.010;**
 - (d) Vessels as defined in KRS 235.010; and**
 - (e) Any other tangible personal property offered for titling or first registration in Kentucky.**
- (2) The tax shall be collected unless the owner:**
 - (a) Presents a tax receipt from the seller verifying that the tax has been previously paid;**
 - (b) Demonstrates that the transfer of the property is exempt under KRS 139.470(4); or**
 - (c) Provides a properly executed resale certificate of exemption in accordance with KRS 139.270.**
- (3) The tax collected by the county clerk shall be reported and remitted to the department on forms provided by the department.**
- (4) For services provided in collecting the tax, the county clerk shall deduct a fee of three percent (3%) of the tax collected and remit the balance to the department as provided in Section 2 of this Part.**

Section 2. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the Department of Revenue all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax **and sales and use tax** collections not later than the next business day following receipt in a Commonwealth of Kentucky, Department of Revenue account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the commissioner of the Department of Revenue or his designee. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to

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deposit or transfer money collected shall not be less than fifty dollars (\$50) nor more than five hundred dollars (\$500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The department may in its discretion grant a county clerk a reasonable extension of time to file his report or make any transfer of deposits as required above. The extension, however, must be requested prior to the end of the seven (7) day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729 and Section 1 of this Part.

Section 3. KRS 186.655 is amended to read as follows:

- (1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may operate upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which the vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:
 - (a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, or recreational vehicle;
 - (b) The owner's registration receipt, if the trailer, semitrailer, or recreational vehicle was last registered in this state;
 - (c) A bill of sale and the previous registration receipt, if last registered in another state that does not require the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;
 - (d) A certificate of title, if last registered in another state that requires the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;
 - (e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle assembled or constructed for his personal use on the highways; or
 - (f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle where the bill of sale for the vehicle has been lost, destroyed, or stolen.
- (2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain the owner's name, address, date, brief description, and a statement that the trailer was constructed by the owner for use on the highways and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.
- (3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain the owner's name, address, date, make, year made, serial or identification number, name of the person from whom purchased, date of purchase, a statement that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed, or stolen, and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.
- (4) After initial registration of his vehicles in this state, the owner shall register his trailer, semitrailer, or recreational vehicle on or before April 1 of each year. Registration with the clerk shall be deemed to be registration with the cabinet.

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~~[(5) A county clerk or other officer shall not issue license tags to the owner of a recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the Department of Revenue. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the Department of Revenue.]~~

Section 4. The provisions of this Part shall be effective January 1, 2007."

HOUSE REPORT

The House deletes the entire State/Executive Branch Budget Bill, Part XVII, language provision relating to Sales And Use Tax and creates a new Part XIV language provision as follows:

"Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall collect any applicable sales and use tax for the following tangible personal property purchased out of state at the time the property is offered for titling or first registration:

(a) Recreational vehicles as defined in KRS 186.650;

(b) Manufactured homes as defined in KRS 186.650;

(c) Motorboats as defined in KRS 235.010;

(d) Vessels as defined in KRS 235.010; and

(e) Any other tangible personal property offered for titling or first registration in Kentucky.

(2) The tax shall be collected unless the owner:

(a) Presents a tax receipt from the seller verifying that the tax has been previously paid;

(b) Demonstrates that the transfer of the property is exempt under KRS 139.470(4); or

(c) Provides a properly executed resale certificate or certificate of exemption in accordance with KRS 139.270.

(3) The tax collected by the county clerk shall be reported and remitted to the department on forms provided by the department.

(4) For services provided in collecting the tax, the county clerk shall deduct a fee of three percent (3%) of the tax collected and remit the balance to the department as provided in Section 2 of this Part.

Section 2. KRS 138.464 is amended to read as follows:

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The county clerk shall report each Monday to the Department of Revenue all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax and sales and use tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, Department of Revenue account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the commissioner of the Department of Revenue or his designee. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to deposit or transfer money collected shall not be less than fifty dollars (\$50) nor more than five hundred dollars (\$500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The department may in its discretion grant a county clerk a reasonable extension of time to file his report or make any transfer of deposits as required above. The extension, however, must be requested prior to the end of the seven (7) day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729 and Section 1 of this Part.

Section 3. KRS 186.655 is amended to read as follows:

- (1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may operate upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which the vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:
 - (a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, or recreational vehicle;
 - (b) The owner's registration receipt, if the trailer, semitrailer, or recreational vehicle was last registered in this state;
 - (c) A bill of sale and the previous registration receipt, if last registered in another state that does not require the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;
 - (d) A certificate of title, if last registered in another state that requires the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;
 - (e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle assembled or constructed for his personal use on the highways; or
 - (f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle where the bill of sale for the vehicle has been lost, destroyed, or stolen.

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- (2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain the owner's name, address, date, brief description, and a statement that the trailer was constructed by the owner for use on the highways and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.
 - (3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain the owner's name, address, date, make, year made, serial or identification number, name of the person from whom purchased, date of purchase, a statement that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed, or stolen, and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.
 - (4) After initial registration of his vehicles in this state, the owner shall register his trailer, semitrailer, or recreational vehicle on or before April 1 of each year. Registration with the clerk shall be deemed to be registration with the cabinet.
 - ~~[(5) A county clerk or other officer shall not issue license tags to the owner of a recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the Department of Revenue. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the Department of Revenue.]~~
- Section 4. The provisions of this Part shall be effective January 1, 2007."

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Part XV - Apportioned Vehicles

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part XVIII, Apportioned Vehicles, includes the following directive:

"Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

- (1) There shall be exempt from ad valorem tax for state and local purposes trucks, tractors, and buses used on routes or in systems that are partly within and partly outside Kentucky, and that are subject to the fee imposed by Section 2 of this Part.
- (2) There shall be exempt from ad valorem tax for state and local purposes semitrailers as defined in KRS 189.010(12) and trailers as defined in KRS 189.010(17) that are used on a route or in a system that is partly within and partly outside Kentucky. Semitrailers or trailers required to be registered under KRS 186.655 that are used only in Kentucky shall be subject to the ad valorem tax imposed by KRS 132.487.

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding KRS 132.487, any person who owns any truck, tractor, or bus operated on a route or as part of a system that is partly within and partly outside Kentucky shall pay an annual fee to the Transportation Cabinet at the time the vehicle is registered and the registration fee is paid pursuant to KRS 186.020 and KRS 186.050(3) and (13).
- (2) The fee imposed by subsection (1) of this section replaces the state and local ad valorem property tax the Department of Revenue previously imposed and centrally collected against trucks, tractors, and buses operated on a route or as part of a system that is partly within and partly outside Kentucky. The fee imposed by subsection (1) of this section shall not be construed as a fee imposed upon the registration, operation, or use of the vehicles on public highways. The Department of Revenue shall use the following method for determining the rate for fixing the assessed value of the property and for determining the annual fee amount:
 - (a) The Department of Revenue shall determine the assessed value on an annual basis by multiplying the purchase price of the truck, trailer, tractor or bus by a market-based factor;
 - (b) The Department of Revenue shall determine an aggregate state and local rate on an annual basis. The state rate shall be the weighted average commercial and industrial tangible personal property tax rate, and the local rate shall be determined using the method set forth in KRS 136.180(3) and (4);
 - (c) The Department of Revenue shall determine the amount subject to the annual fee by multiplying the total assessed value of all vehicles by an apportionment factor. The apportionment factor shall be determined by dividing reported Kentucky miles by total miles; and

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- (d) The annual fee shall be determined by multiplying the amount subject to the annual fee by the rate determined in paragraph (b) of this subsection.
The Department of Revenue shall provide the Transportation Cabinet with the information needed to collect the fee.
- (3) The Transportation Cabinet shall forward the money it collects from the fee imposed by subsection (1) of this section to the Department of Revenue on a monthly basis. The Department of Revenue shall divide and distribute the money among the state, counties, cities, urban-counties, charter counties, consolidated local governments, school districts, and special taxing districts in the same manner as the Department of Revenue divided and distributed the state and local ad valorem property tax previously imposed and centrally collected.
- (4) Pick-up and delivery vehicles operating from a terminal within this state and vehicles that do not leave the state in the normal course of business shall not be required to pay the fee imposed by subsection (1) of this section, but shall instead be subject to the ad valorem tax under KRS 132.487.
- (5) Any person paying the fee imposed by subsection (1) of this section shall have forty-five (45) days from the date the person is notified of the fee amount to protest. The protest shall be filed with the Commonwealth of Kentucky, Department of Revenue, in accordance with the provisions of KRS 131.110. Notification by any state or Canadian registration authority of the amount due shall satisfy the notification requirement of KRS 131.110(1).
- (6) No protest or appeal shall delay the collection or payment of the fee imposed by subsection (1) of this section. The fee amount due as determined in subsection (2) of this section shall be paid at the time of registration. If the fee is not paid, the Commonwealth of Kentucky, Transportation Cabinet shall not register the vehicle for which registration is sought. Persons registering vehicles in other states or Canada shall be subject to requirements of those registration authorities.

Section 3. KRS 136.1873 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

- (1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the Department of Revenue for purposes of taxation as of January 1 each year.
- (2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 4. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and prior to January 1, 2007~~[each year thereafter]~~, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses whose route or system is partly within this

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state and partly within another state or states, shall on forms provided by the Department of Revenue provide the department with a detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value on an annual basis.

Section 5. KRS 136.1877 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

- (1) The Department of Revenue shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the department in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the department's notice of the tentative assessment to protest as provided by KRS 131.110.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.
- (3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the Department of Revenue.
- (4) The Department of Revenue shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.
- (5) The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of KRS 136.180(6) shall be deducted.

Section 6. The provisions of this Part take effect on January 1, 2007."

HOUSE REPORT

The House deletes the entire State/Executive Branch Budget Bill, Part XVIII, language provision relating to Apportioned Vehicles and creates a new Part XV language provision as follows:

"Notwithstanding KRS 48.310, the following statutes are created or amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

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SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

- (1) There shall be exempt from ad valorem tax for state and local purposes trucks, tractors, and buses used on routes or in systems that are partly within and partly outside Kentucky, and that are subject to the fee imposed by Section 2 of this Part.
- (2) There shall be exempt from ad valorem tax for state and local purposes semitrailers as defined in KRS 189.010(12) and trailers as defined in KRS 189.010(17) that are used on a route or in a system that is partly within and partly outside Kentucky. Semitrailers or trailers required to be registered under KRS 186.655 that are used only in Kentucky shall be subject to the ad valorem tax imposed by KRS 132.487.

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding KRS 132.487, any truck, tractor, or bus which is operated on a route or as part of a system that is partly within and partly outside Kentucky shall be subject to an annual fee at the time the vehicle is registered with and the registration fee is paid to the Transportation Cabinet pursuant to KRS 186.020 and KRS 186.050(3) and (13). The fee shall be imposed on the vehicle's owner or the owner's legal designee as of January 1 of each year. Such payment shall be made to the Transportation Cabinet either directly, in the case of a vehicle based in Kentucky, or indirectly, through the International Registration Plan, in the case of a vehicle based outside of Kentucky.
- (2) The fee imposed by subsection (1) of this section replaces the state and local ad valorem property tax the Department of Revenue previously imposed and centrally collected against trucks, tractors, and buses operated on a route or as part of a system that is partly within and partly outside Kentucky. The fee imposed by subsection (1) of this section shall not be construed as a fee imposed upon the registration, operation, or use of the vehicles on public highways. The Department of Revenue shall use the following method for determining the rate for fixing the assessed value of the property and for determining the annual fee amount:
 - (a) The Department of Revenue shall determine the assessed value on an annual basis by multiplying the purchase price of the truck, tractor, or bus by a depreciation value expressed as a percentage of the original cost from an authoritative source that the Department of Revenue prescribes by promulgation of an administrative regulation;
 - (b) The Department of Revenue shall determine an aggregate state and local rate on an annual basis. The state rate shall be the weighted average commercial and industrial tangible personal property tax rate, and the local rate shall be determined using the method set forth in KRS 136.180(3) and (4);
 - (c) The Department of Revenue shall determine the amount subject to the annual fee by multiplying the total assessed value of all vehicles by an apportionment factor. The apportionment factor shall be determined as provided in KRS 186.050(13)(a); and
 - (d) The annual fee shall be determined by multiplying the amount subject to the annual fee by the rate determined in paragraph (b) of this subsection.

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The Department of Revenue shall provide the Transportation Cabinet with the information needed to collect the fee.

- (3) The Transportation Cabinet shall forward the money it collects from the fee imposed by subsection (1) of this section to the Department of Revenue on a monthly basis. The Department of Revenue shall divide and distribute the money among the state, counties, cities, urban-counties, charter counties, consolidated local governments, school districts, and special taxing districts in the same manner as the Department of Revenue divided and distributed the state and local ad valorem property tax previously imposed and centrally collected.*
- (4) Pick-up and delivery vehicles operating from a terminal within this state and vehicles that do not leave the state in the normal course of business shall not be required to pay the fee imposed by subsection (1) of this section, but shall instead be subject to the ad valorem tax under KRS 132.487.*
- (5) Any person paying the fee imposed by subsection (1) of this section shall have forty-five (45) days from the date the person is notified of the fee amount to protest. The protest shall be filed with the Commonwealth of Kentucky, Department of Revenue, in accordance with the provisions of KRS 131.110. Notification by any state's or Canadian province's or territory's registration authority of the amount due shall satisfy the notification requirement of KRS 131.110(1).*
- (6) No protest or appeal shall delay the collection or payment of the fee imposed by subsection (1) of this section. The fee amount due as determined in subsection (2) of this section shall be paid at the time of registration. If the fee is not paid, the Commonwealth of Kentucky, Transportation Cabinet shall not register the vehicle for which registration is sought. Persons registering vehicles in other states or Canada shall be subject to requirements of those registration authorities.*

Section 3. KRS 136.1873 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

- (1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the Department of Revenue for purposes of taxation as of January 1 each year.
- (2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 4. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and *prior to January 1, 2007*~~[each year thereafter]~~, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses whose route or system is partly within this state and partly within another state or states, shall on forms provided by the Department of Revenue provide the department with a

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detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value on an annual basis.

Section 5. KRS 136.1877 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

- (1) The Department of Revenue shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the department in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the department's notice of the tentative assessment to protest as provided by KRS 131.110.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.
- (3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the Department of Revenue.
- (4) The Department of Revenue shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.
- (5) The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of KRS 136.180(6) shall be deducted.

Section 6. The provisions of this Part take effect on January 1, 2007."

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Part XVI - Administrative Offsets for Delinquent Taxes and Liquidated Debts

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part XIX, Administrative Offsets for Delinquent Taxes and Liquidated Debts, includes the following directive:

"Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 44.030 is amended to read as follows:

- (1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when the person or the person's assignor is indebted to the state or any county, city, urban county government, consolidated local government, or charter county government duly organized in this state. The claim, to the extent it is allowed, shall first be credited to the account of the person so indebted to the state, and if there is any balance due the person after settling the whole demand of the state, any certified liquidated debts of any county, city, urban county government, consolidated local government, or charter county government of this state shall be paid. The creditor having the largest certified debt shall have first priority and if there is any balance due the claimant after settling the whole demand of the state, counties, cities, urban county governments, consolidated local governments, or charter county governments, and if there are not liquidated debts certified against the claim pursuant to Section 2 of this Act, that balance shall be paid to the person.
- (2) The Finance and Administration Cabinet shall provide the Cabinet for Health and Family Services with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Health and Family Services shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

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- (3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Court of Justice in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the Department of Revenue for collection under KRS 45.241.
- (4) Each agency and the Court of Justice shall provide information to the State Treasurer concerning any debt referred to the Department of Revenue for collection under KRS 45.237.

SECTION 2. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any other provision of the Kentucky Revised Statutes, and pursuant to the provisions of 31 USC 3716(h)(1) and 31 USC 3716 (b), the Finance and Administration Cabinet, at the request of any executive, judicial, or legislative agency of the Commonwealth, may enter into a reciprocal agreement with the United States government to offset the claim of any person against the Commonwealth to any debt of that person owed to the United States government which has been certified by the United States government as final due and owing, with all appeals and legal actions having been waived or exhausted, and to offset any nontax claim of any person against the United States government to any liquidated debt of that person owed to the Commonwealth.
- (2) Notwithstanding any other provision of the Kentucky Revised Statutes, the Finance and Administration Cabinet, at the request of any executive, judicial, or legislative agency of the Commonwealth, may enter into a reciprocal agreement with any state as defined in KRS 446.010(30), to offset the claim of any person against the Commonwealth to any debt of that person owed to any state which has certified the debt as final due and owing, with all appeals and legal actions having been

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waived or exhausted, and to offset any claim of any person against any state to any liquidated debt of that person owed to the Commonwealth.

- (3) In the case of multiple creditors who have certified liquidated debt against the same person on a claim against the Commonwealth, pursuant to this section and Section 1 of this Act, the debts of the Commonwealth, counties, cities, urban county governments, consolidated local governments, and charter county governments shall be credited first, and if there is any balance due the claimant after settling the whole demands of the Commonwealth, counties, cities, consolidated local governments, and charter county governments, the balance shall be credited to the liquidated debts certified by the United States government and any other state as defined in KRS 446.010(30), with the creditor having the largest liquidated debt having first priority. If there is a balance due the claimant after satisfaction of all liquidated debts as itemized in this section, the balance shall be paid to the claimant.

Section 3. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the Department of Revenue shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 who owes overdue child support or is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization, or any county, city, urban county government, consolidated local government, or charter county government duly organized in this state, which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the Department of Revenue from such taxpayer, the tax refund balance so withheld shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency or any county, city, urban county government, consolidated local government, or charter county government duly

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organized in this state, having established a claim therefor. In the case of multiple state agency *or any county, city, urban county government, consolidated local government, or charter county government duly organized in this state*, claims against the same tax refund, the *state* agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the Department of Revenue, *followed by other state agency claims. After all state agency claims have been satisfied, the claims of any any county, city, urban county government, consolidated local government, or charter county government duly organized in this state shall be satisfied the larger pending claim staisfied first, and other claims satisfied in descending order.*"

HOUSE REPORT

The House concurs with the Branch with the following exception: The State/Executive Branch Budget Bill, Part XIX, Administrative Offsets for Delinquent Taxes and Liquidated Debts has been renumbered to Part XVI, Administrative Offsets for Delinquent Taxes and Liquidated Debts.

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Part XVII - Electronic Levies for Delinquent Tax Collections

BRANCH BUDGET

The State/Executive Branch Budget Bill, Part XVIII, Apportioned Vehicles, includes the following directive:

"Notwithstanding KRS 48.310, the following statutes are created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Part:

- (1) "Debt" means a liquidated debt as defined in KRS 45.241(1)(b);*
- (2) "Debtor" means any person liable for a debt;*
- (3) "Department" means the Department of Revenue;*
- (4) "Delinquent taxpayer" means a person who has been assessed for a tax, the collection of which is administered by the Department of Revenue, and who has not sought administrative or judicial review of the assessment as provided in KRS 131.110, or who has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing. For a person to be considered a "delinquent taxpayer," the following conditions must also be met:*
 - (a) The tax remains unpaid after thirty (30) days from demand for payment by the department; and*
 - (b) The person is not making current timely installment payments on the tax liability under agreement with the department;*

and
- (5) "Financial institution" means:*
 - (a) A depository institution and an institution-affiliated party as defined in 12 U.S.C. sec. 1813(c) and (u);*

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(b) Any federal or state credit union, including an institution-affiliated party as defined in 12 U.S.C. secs. 1752 and 1786(r); or

(c) Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage firm, trust company, or similar entity authorized to do business in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) To assist the department in the collection of delinquent taxes and debts owed to the Commonwealth, the department shall design, develop, implement, and operate a financial institution match system for the purpose of identifying and seizing the financial assets of delinquent taxpayers and debtors as identified by the department. The provisions of Sections 1 to 4 of this Part shall be applied uniformly to all financial institutions within the Commonwealth as feasible.
- (2) Each financial institution in the Commonwealth shall, in conjunction with the department, develop and operate a data match system to facilitate the identification and seizure of financial assets of delinquent taxpayers and debtors identified by the department. If a financial institution has a data match system developed pursuant to KRS 205.774(2) for the purpose of administering the child support enforcement programs of the Commonwealth, and if the system is compatible with the requirements of Sections 1 to 4 of this Part, the financial institution may utilize that system to comply with the provisions of this subsection.
- (3) (a) When the department determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a delinquent taxpayer or debtor, a lien or levy shall, subject to the

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provisions of subsection (4) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained.

(b) The department shall provide notice of the following to the debtor or delinquent taxpayer and the financial institution:

1. The match;
2. The lien or levy arising therefrom; and
3. The action to be taken to surrender or encumber the account with the lien or levy for delinquent taxes.

Notice shall be provided to the debtor or delinquent taxpayer within two (2) business days of the date the notice is sent to the financial institution.

(4) A financial institution ordered to surrender or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is seized or encumbered.

(5) A financial institution may charge an account levied on by the department a fee of not more than twenty dollars (\$20) which may be deducted from the account prior to remitting any funds to the department.

(6) The department shall bear the cost or, if paid by the delinquent taxpayer or debtor, reimburse the delinquent taxpayer or debtor for any bank charges incurred as a result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to the issuance of the erroneous lien or levy, the delinquent taxpayer or debtor timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position.

(7) The department may promulgate administrative regulations to implement Sections 1 to 4 of this Part.

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SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) Financial institutions doing business in the Commonwealth shall provide identifying information each calendar quarter to the department for each delinquent taxpayer or debtor identified by the department that is indebted to the Commonwealth for delinquent taxes or debts and who maintains an account at the institution.
- (2) The financial institution shall be paid a fee for conducting data matches from the delinquent taxpayer's account, not to exceed the actual cost.
- (3) Except for the exchange of information between the department and financial institutions necessary for the enforcement of Sections 1 to 4 of this Part, any information obtained by the department from financial institutions shall be subject to confidentiality restrictions imposed on the department by KRS 131.190.
- (4) A financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a lien or notice of levy issued by the department, or any other action taken in good faith to comply with the requirements of Sections 1 to 4 of this Part.

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) A financial institution furnishing a report or providing asset information about a delinquent taxpayer or debtor to the department shall not disclose to the delinquent taxpayer or debtor that the name of that person has been received from or furnished to the department. A financial institution may disclose to its depositors or account holders that under the financial institution match system the department has the authority to request certain identifying information on certain depositors or account holders.

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- (2) If a financial institution willfully violates the provisions of this section, the institution shall pay to the department the lesser of one thousand dollars (\$1,000) or the amount on deposit or in the account of the person to whom the disclosure was made.
- (3) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the department pursuant to Sections 1 to 4 of this Part, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list or report furnished by the financial institution to the department.
- (4) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to Sections 1 to 4 of this Part and shall not be liable for failure to provide that notice; provided, however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the department has the authority to request certain identifying information on certain depositors or account holders. The department shall notify, not less than annually, affected depositors or account holders who have not otherwise received notification."

HOUSE REPORT

The House concurs with the Branch with the following exception: The State/Executive Branch Budget Bill, Part XX, Electronic Levies for Delinquent Tax Collections has been renumbered to Part XVII, Electronic Levies for Delinquent Tax Collections.

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Part XVIII - Self-Insured Plan for State Employees

BRANCH REPORT

The State/Executive Branch Budget Bill contains no special provision related to the Self-Insured Plan for State Employees.

HOUSE REPORT

The House includes the following directive:

"SELF-INSURED PLAN FOR STATE EMPLOYEES

Notwithstanding KRS 48.310, the following statute is created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:

- (a) The secretary of the Personnel Cabinet shall promulgate an administrative regulation to establish the self-insured plan and shall incorporate by reference in the administrative regulation, pursuant to KRS 13A.2251, the summary plan description for public employees covered under the self-insured plan. Prior to filing an administrative regulation with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review;*
- (b) The self-insured plan offered by the Public Employee Health Insurance Program shall comply with the utilization review statutes in KRS 304.17A-600 to 304.17A-633 and any administrative regulations promulgated thereunder;*
- (c) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;*
- (d) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an*

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appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;

- (e) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (d) of this subsection;
- (f) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;
- (g) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;
- (h) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis;
- (i) The self-insured plan shall comply with KRS 304.17A-270 and 304.17A-171; and
- (j) The self-insured plan shall comply with KRS 205.593, 304.14-135, 304.17A-700 to 304.17A-730, and 304.99-123.

(2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.

- (a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars (\$175), for that employee as an employer contribution to the health reimbursement account.
- (b) In addition to the employer contribution to a health reimbursement account, the Personnel Cabinet shall collect from the employer the necessary funds to offset any administrative fees associated with the health reimbursement account. Public employees shall not be required to pay any administrative fees associated with the health reimbursement account.

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(3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. The trust fund shall not utilize funds for any other purpose, except by approval of the General Assembly. The following moneys shall be directly deposited into the trust fund:

1. Employer and employee premiums collected under the self-insured plan;
2. Interest and investment returns earned by the self-insured plan;
3. Rebates and refunds attributed to the self-insured plan; and
4. All other receipts attributed to the self-insured plan.

(b) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraph (a) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.

(c) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the trust fund, and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.

(d) Within thirty (30) days of the end of each calendar quarter, the secretary of the Personnel Cabinet shall file a report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006. The report shall include the following:

1. The current balance of the trust fund;
2. A detailed description of all income to the trust fund since the last report;
3. A detailed description of any receipts due to the trust fund;
4. A total amount of payments made for medical claims from the trust fund;
5. A detailed description of all payments made to the third party administrator of the self-insured plan by the trust fund;

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6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
7. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:
 - a. Any results or outcomes of disease management and wellness programs;
 - b. Results of case management audits and educational and communication efforts; and
 - c. Comparison of actual measurable results to contract performance guarantees;
8. Any other information the secretary may include;
9. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
10. In addition to the information required under subparagraphs 1. to 9. of this paragraph, the quarterly report filed in July and January shall also include the following:
 - a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;
 - b. A statement of any other trust fund liabilities;
 - c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes; and
 - d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of state networks during the next six (6) months."

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Part XIX - Nonrenewal of Delinquent Tax Payer's Business License

BRANCH

The State/Executive Branch Budget Bill provide no language.

HOUSE REPORT

The House adds Part XIX, Nonrenewal of Delinquent Tax Payer's Business License, which includes the following:

"Notwithstanding KRS 48.310, the following statutes are created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 2 of this Part:

- (1) "State license" means a license, certificate, registration, permit, approval, or other similar document issued by a licensing authority granting to an individual or business a right or privilege to engage in a profession, occupation, or business in this state. "State license" does not include an inactive license issued by a licensing authority which does not grant an individual the right to engage in a profession, occupation or business in this state;*
- (2) "Licensing authority" means a bureau, department, division, board, agency, commission, or other entity of this state or of a municipality in this state that issues a state license; and*
- (3) "Tax laws of this state" means the tax laws of the Commonwealth that are administered by the Department of Revenue.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any statute or administrative regulation making application information confidential, each licensing authority shall, on a date that allows the Department of Revenue to comply with the notice provisions of subsection (2) of this*

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section, provide to the Department of Revenue a list of all its licensees and any identifying information required by the Department of Revenue. The list and information shall be used by the Department of Revenue exclusively for the purpose of collection of delinquent taxes owed to the Commonwealth and administered by the Department of Revenue. Information supplied to the Department of Revenue pursuant to this section shall be subject to KRS 131.190.

(2) The Department of Revenue shall, within six (6) months of any license renewal, notify any licensee who is not in compliance with the tax laws of this state as follows:

(a) A statement that the licensee's license shall not be renewed until the Department of Revenue deems the taxpayer to be in compliance with the tax laws of this state;

(b) The reasons that the taxpayer is considered to be out of compliance with the tax laws of this state, including a statement of the amount of any tax, penalties, and interest due or a list of the tax periods for which tax returns have not been filed as required by law;

(c) An explanation of the rights of the taxpayer and the procedures which shall be followed by the taxpayer to come into compliance with the tax laws of this state;

(d) That the licensee has all the rights afforded to the taxpayers of this Commonwealth as provided in KRS 131.081; and

(e) Other information required by the Department of Revenue.

(3) A licensee who has entered into and is abiding by a payment agreement, or who has requested relief pursuant to KRS 141.180(4) which is pending or has been granted, shall be deemed to be in compliance with the tax laws of this state for purposes of this section and Section 1 of this Part.

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Part XIX - Nonrenewal of Delinquent Tax Payer's Business License

- (4) If the Department of Revenue notifies a licensee who is not in compliance with the tax laws of this state as required in this section and Section 1 of this Part and the licensee does not respond to the notification or fails to come into compliance with the tax laws of this state after an assessment has been made final, due, and owing or after the Department of Revenue determines that every reasonable effort has been made to assist the licensee to come into compliance with the tax laws of this state, the Department of Revenue, notwithstanding KRS 131.190, shall so notify the licensing authority, which shall not renew the licensee's license when it is subject to renewal and shall notify the applicant of the reason for nonrenewal. The licensee may appeal the decision pursuant to the appeal procedures granted by the licensing authority. If a licensee who has been previously reported by the Department of Revenue to a licensing authority as being out of compliance comes into compliance, the Department of Revenue shall immediately notify the licensing authority. A licensing authority shall not be held liable for any action taken with respect to a state license pursuant to this section.
- (5) If the Kentucky Bar Association receives notice that a licensed attorney is not in compliance with the tax laws of this state as provided in this section and Section 1 of this Part, the Kentucky Bar Association shall consider the notification a complaint against the attorney and act pursuant to SCR 3.160 to begin proceedings by which the attorney may be suspended. If suspended, the attorney may be reinstated pursuant to reinstatement procedures as provided in the Kentucky Rules of the Supreme Court.
- (6) The Department of Revenue shall promulgate administrative regulations for the implementation of this section and Section 1 of this Part."

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Part XX - Local Government Economic Development Fund Single County Accounts

BRANCH

The State/Executive Branch Budget Bill provide no language.

HOUSE REPORT

The House adds Part XX, Local Government Economic Development Fund Single County Accounts, which includes the following:

"Notwithstanding KRS 48.310, the following statute is created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS 42.450 to 42.495, beginning in fiscal year 2006-2007 and each fiscal year thereafter, no expenditure shall be made from funds allocated to individual coal-producing counties pursuant to KRS 42.4592(1)(a) and (b), unless the expenditure is specifically authorized by the General Assembly. Any amount remaining in an individual coal-producing county account at the close of any fiscal year shall carry forward to the next fiscal year."

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Part XXI - Department of Commercialization and Innovation

BRANCH

The BRANCH contained no provision relating to the reorganization of the Department of Commercialization and Innovation.

HOUSE REPORT

The House Report adds Part XXI, Department of Commercialization and Innovation as follows:

"DEPARTMENT OF COMMERCIALIZATION AND INNOVATION

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.
- (2) There is established the Department of ~~Innovation and~~ Commercialization **and Innovation**~~[for a Knowledge Based Economy]~~ in the Cabinet for Economic Development. The department shall be headed by a commissioner appointed by the Governor under KRS 12.040. **The department shall be a separate appropriation unit within the cabinet, and shall be independent of any other subdivision of the cabinet.**
- (3) The duties of the Department of ~~Innovation and~~ Commercialization **and Innovation**~~[for a Knowledge Based Economy]~~ shall include but not be limited to:
 - (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-315;

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- (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy as approved by the Kentucky Innovation Commission, January 7, 2002, or as revised, and report annually prior to November 1 to the Kentucky Innovation Commission, the Governor, and the General Assembly;
- (c) Oversee the modernization initiative in KRS 154.12-274;
- (d) Assist the cabinet in the recruitment of research and development companies;
- (e) Assist the cabinet in the attraction of high-technology research and development centers;
- (f) Support growth and creation of knowledge-based, innovative companies;
- (g) Build the infrastructure for the new economy businesses and promote networks of technology-driven clusters and research intensive industries;
- (h) Administer the high-tech construction pool and the high-tech investment pool;
- (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
- (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this paragraph, the Science and Technology Funding Program means the Kentucky Rural Innovation Program, the Kentucky Research and Development Voucher Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and

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Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation.

- (4) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The commissioner, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The commissioner shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.
- (5) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The commissioner, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (6) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

Section 2. KRS 154.12-310 is amended to read as follows:

- (1) The Kentucky Innovation and Commercialization Centers are private-public partnerships, operating as a cohesive statewide infrastructure to support the implementation of key Kentucky Innovation Act initiatives.
- (2) The organization of the ICCs shall include a central statewide headquarters, six (6) affiliate centers, and a number of satellite offices.

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- (a) The central headquarters has primary responsibility for the following:
 - 1. Managing and administering the ICC Program;
 - 2. Establishing uniform program application, protocol, and operating guidelines when appropriate;
 - 3. Supporting the protocol by creating and funding centralized services to be distributed throughout the network; and
 - 4. Identifying those issues, opportunities, and challenges that have statewide implications.
- (b) The regional affiliates are responsible for fulfilling the duties as set forth in KRS 154.12-305 relating to the implementation of the region's innovation strategic plan and supporting the implementation of the Kentucky Innovation Act initiatives in the region or subregion;
- (c) The satellites are responsible for generating technology business development in their assigned geographic area, acting as a bridge between individuals and businesses needing critical early state concept and development work and the affiliate centers that can provide this support.

The affiliates and satellites provide a valuable assurance for equal access to the Kentucky Innovation Act initiatives and funding, and provide an opportunity for full participation in rural and remote, as well as metropolitan, areas of the state.

- (3) The commissioner shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 154.12-300 to 154.12-315.
- (4) The commissioner may, in effectuating the provisions of KRS 154.12-300 to 154.12-315, contract with a science and technology organization as defined in KRS 164.6011 to administer and manage the ICC Program.

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(5) Grants awarded by the Department of Commercialization and Innovation to Kentucky Innovation and Commercialization Centers shall be renewed annually. However, if the department determines that a grantee is not in compliance with performance standards, the grant shall not be renewed. The department shall promulgate an administrative regulation specifying the process by which the department determines a grantee's compliance. Payment of grant awards shall be made on July 1 of the fiscal year for which they apply. All grants awarded shall require the grantee to provide a cash or in-kind match of twenty percent (20%) of the total project costs. The department shall pay indirect costs associated with grants awarded to postsecondary education institutions.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

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2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.

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- (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
- (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Educational Television.
 - (d) Kentucky Commission on the Deaf and Hard of Hearing.
 - (e) Operations and Development Office.
 - (f) Board of Directors for the Center for School Safety.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.

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1. Office of Legislative and Intergovernmental Affairs.
2. Office of Communications and Public Outreach.
3. Office of Regulatory Affairs.
4. Office of Legal Services.
5. Office of Administrative and Information Services.
6. Office of Administrative Hearings.
7. Office of Inspector General.
8. Mine Safety Review Commission.
9. Workers' Compensation Board.
10. Kentucky State Nature Preserves Commission.
11. Kentucky Environmental Quality Commission.
12. Kentucky Occupational Safety and Health Review Commission.

(b) Department for Environmental Protection.

1. Office of the Commissioner.
2. Division of Air Quality.
3. Division of Water.
4. Division of Environmental Services.
5. Division of Waste Management.

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- 6. Division of Enforcement.
- 7. Division of Compliance Assistance.

(c) Department for Natural Resources.

- 1. Office of the Commissioner.
- 2. Office of Technical and Administrative Support.
- 3. Division of Mine Permits.
- 4. Division of Mine Reclamation and Enforcement.
- 5. Division of Abandoned Mine Lands.
- 6. Division of Oil and Gas Conservation.
- 7. Office of Mine Safety and Licensing.
- 8. Division of Forestry.
- 9. Division of Conservation.

(d) Department of Public Protection.

- 1. Office of the Commissioner.
- 2. Division of Administrative Services.
- 3. Crime Victims Compensation Board.
- 4. Board of Claims.
- 5. Board of Tax Appeals.

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6. Kentucky Boxing and Wrestling Authority.
7. Kentucky Horse Racing Authority.
8. Kentucky Public Service Commission.
9. Office of Alcoholic Beverage Control.
10. Office of Charitable Gaming.
11. Office of Financial Institutions.
12. Office of Housing, Buildings and Construction.
13. Office of Insurance.

(e) Department of Labor.

1. Office of the Commissioner.
2. Office of Occupational Safety and Health.
3. Office of Labor Management Relations and Mediation.
4. Office of Workplace Standards.
5. Office of Workers' Claims.
6. Workers' Compensation Funding Commission.
7. Kentucky Labor Management Advisory Council.
8. Occupational Safety and Health Standards Board.
9. Prevailing Wage Review Board.

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10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.

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1. Office of Transportation Enhancement Programs.
2. Office of Rural and Secondary Roads.
- (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Department for Regional Development.

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- (f) Tobacco Research Board.
 - (g) Kentucky Economic Development Finance Authority.
 - (h) Office of Research and Information Technology.
 - (i) Department of ~~Innovation and~~ Commercialization and Innovation ~~[for a Knowledge Based Economy]~~.
 - (j) Office of Legal Services.
 - (k) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.

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- (l) Office of the Ombudsman.
- (m) Department for Human Support Services.
- (n) Kentucky Commission on Community Volunteerism and Service.
- (o) Office of Fiscal Services.
- (p) Office of Human Resource Management.
- (q) Office of Technology.
- (r) Office of Contract Oversight.

7. Finance and Administration Cabinet:

- (a) Office of General Counsel.
- (b) Office of the Controller.
- (c) Office of Administrative Services.
- (d) Office of Public Information.
- (e) Department for Facilities and Support Services.
- (f) Department of Revenue.
- (g) Commonwealth Office of Technology.
- (h) State Property and Buildings Commission.
- (i) Kentucky Savings Bond Authority.
- (j) Office of Equal Employment Opportunity and Contract Compliance.

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- (k) County Officials Compensation Board.
- (l) Kentucky Employees Retirement Systems.
- (m) Commonwealth Credit Union.
- (n) State Investment Commission.
- (o) Kentucky Housing Corporation.
- (p) Kentucky Local Correctional Facilities Construction Authority.
- (q) Kentucky Turnpike Authority.
- (r) Historic Properties Advisory Commission.
- (s) Kentucky Tobacco Settlement Trust Corporation.
- (t) Eastern Kentucky Exposition Center Corporation.
- (u) State Board for Proprietary Education.
- (v) Kentucky Higher Education Assistance Authority.
- (w) Kentucky River Authority.
- (x) Kentucky Teachers' Retirement System Board of Trustees.

8. Commerce Cabinet:

- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.

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- (3) Division of Parks Marketing.
- (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.

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- (3) Division of Engineering.
- (4) Division of Fisheries.
- (5) Division of Information and Education.
- (6) Division of Wildlife.
- (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.

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- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of Purchase and Procurement.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
- (q) Coal Marketing and Export.
- (r) Kentucky Coal Council.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.

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- (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- 9. Cabinet for Workforce Development:
 - (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) Kentucky Technical Education Personnel Board.
 - (g) The Foundation for Adult Education.
 - (h) Department for Training and Reemployment.
 - (i) Office of General Counsel.
 - (j) Office of Communication Services.

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- (k) Office of Workforce Partnerships.
- (l) Office of Workforce Analysis and Research.
- (m) Office of Budget and Administrative Services.
- (n) Office of Technology Services.
- (o) Office of Quality and Human Resources.
- (p) Unemployment Insurance Commission.

10. Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department for Personnel Administration.
- (c) Office for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Office of Government Training.
- (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.

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3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. Education Professional Standards Board.
9. Office of Minority Empowerment.

Section 4. KRS 154.12-300 is amended to read as follows:

As used in KRS 154.12-300 to 154.12-315, unless the context indicates otherwise:

- (1) "Affiliate" means an ICC identified as the headquarters for program activity in a region or subregion;
- (2) "Commissioner" means the commissioner of the Department of ~~Innovation and~~ Commercialization **and Innovation**~~for a Knowledge Based Economy~~ established in KRS 154.12-278;
- (3) "ICC" means the Kentucky Innovation and Commercialization Center;
- (4) "Region" means a geographic area of Kentucky designated as having a unique innovation strategic plan by the Department of ~~Innovation and~~ Commercialization **and Innovation**~~for a Knowledge Based Economy~~; and
- (5) "Satellite" means an office of an affiliate in a region.

Section 5. KRS 154.12-305 is amended to read as follows:

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- (1) There is established the Kentucky Innovation and Commercialization Center Program within the Department of ~~Innovation and Commercialization~~ **and Innovation** ~~for a Knowledge-Based Economy~~. The goal of the ICC program is to create products, new companies, and value-added jobs in communities throughout the Commonwealth. Strategies to achieve this goal include:
- (a) Increasing quality deal flow of technology-based firms in Kentucky;
 - (b) Increasing understanding of start-up process and investment practices; and
 - (c) Providing value-added services to the start-up and investment community.
- (2) The duties of the ICC program shall include but not be limited to:
- (a) Identifying and linking entrepreneurs, faculty, scientists, venture capitalists, and other key individuals from the business sector, universities, community and technical colleges, local leaders, and government for the creation and expansion of knowledge-based companies;
 - (b) Establishing a uniform protocol for assembling and communicating project concepts and opportunities;
 - (c) Supporting high-quality projects through the concept and development phases including services such as market research, prototype development, business plan and strategies development, grant and contract capabilities, and capital and management resource identification; and
 - (d) Identifying, in the area of technology development, potential partners, strategic opportunities, training and educational needs, and issues that inhibit the growth of technology sectors and business clusters in the state.

Section 6. KRS 154.20-254 is amended to read as follows:

As used in KRS 154.20-250 to 154.20-284, unless the context clearly requires otherwise:

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- (1) "Affiliate" means any person or entity who directly or indirectly, through one (1) or more intermediaries, controls or is controlled by or is under common control with another person or entity;
- (2) "Agreement" means an investment fund agreement entered into pursuant to KRS 154.20-255(5) by the authority and an investment fund manager on behalf of the investment fund, the investment fund manager, and any investor in the investment fund;
- (3) "Amended application" means a document submitted by an investment fund manager, in a form acceptable to the authority and on behalf of an investment fund, for the purpose of increasing the aggregate amount of available tax credits;
- (4) "Applicant" means any person or entity who has not received approval from the authority as an investment fund manager, but who has submitted or will submit an application to the authority for approval as an investment fund manager;
- (5) "Authority" means the Kentucky Economic Development Finance Authority or its designee;
- (6) "Cash contribution" means an investment of money by an investor in an investment fund under the terms of KRS 154.20-250 to 154.20-284;
- (7) "Committed cash contribution" means a legally binding agreement by an investor to make a cash contribution in an amount set forth in a written agreement between an investor and an investment fund;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Credit" means a nonrefundable credit for investors against state tax liability allocated and granted by the authority pursuant to KRS 154.20-258 for qualified investments made by approved investment funds;

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- (10) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (11) "Financial institution" means "financial institution" as defined in KRS 136.500(10) and includes savings and loan associations, savings banks, and similar institutions subject to the taxes imposed by KRS 136.290, 136.300, or 136.310;
- (12) "Insurance company" means any insurance company subject to the taxes imposed by KRS 136.320, 136.330, or 304.3-270;
- (13) "Investment fund" means any entity that is organized by an investment fund manager in compliance with applicable state and federal securities laws and regulations, and is approved by the authority to make qualified investments pursuant to KRS 154.20-256;
- (14) "Investment fund manager" means any person or entity that has been approved by the authority to manage one (1) or more investment funds authorized under the provisions of KRS 154.20-250 to 154.20-284 and is in compliance with all applicable federal and state regulations;
- (15) "Investor" means any person or entity, including financial institutions and insurance companies, that is subject to state tax liability and that makes a cash contribution or a committed cash contribution to an investment fund in accordance with the provisions of KRS 154.20-250 to 154.20-284 and has not been convicted of violating any of Kentucky's tax laws within the past ten (10) years;
- (16) "Nonprofit entity" means an investor that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended;

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- (17) "Qualified activity" means any industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, agricultural enterprise, or agribusiness activity. A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-250 to 154.20-284, or in violation of any law;
- (18) "Qualified investment" means an investment of money in a small business by an investment fund, in compliance with applicable state and federal securities laws and regulations, seeking a financial return based upon that consideration. In consideration for the qualified investment, the investment fund shall receive an equity interest in the small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached; and
- (19) "Small business" means any entity which at the time a qualified investment is made by an investment fund:
- (a) 1. Has a net worth of five million dollars (\$5,000,000) or less or net income after federal income taxes for each of the two (2) preceding fiscal years of three million dollars (\$3,000,000) or less; or
 2. Is a knowledge-based business, as shall be prescribed by the commissioner of the Department of ~~Innovation and~~ Commercialization and Innovation ~~[for a Knowledge Based Economy]~~, and has a net worth of ten million dollars (\$10,000,000) or less;

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- (b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the receipt of a qualified investment by an investment fund;
- (c) Has no more than one hundred (100) employees; and
- (d) Has more than fifty percent (50%) of its assets, operations, and employees located in Kentucky.

Section 7. KRS 164.6015 is amended to read as follows:

- (1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:
 - (a) The Governor or designee;
 - (b) The secretary of the Governor's Executive Cabinet or designee;
 - (c) The secretary of the Cabinet for Economic Development or designee;
 - (d) The president of the Council on Postsecondary Education or designee;
 - (e) The state budget director or designee;
 - (f) The Speaker of the House or designee;
 - (g) The President of the Senate or designee; and
 - (h) Eight (8) at-large members appointed by the Governor as follows:
 - 1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;
 - 2. One (1) member engaged in the business of venture capital;

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3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and
 4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.
- (2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.
 - (3) The commission shall meet quarterly and at other times upon call by the chair.
 - (4) Eight (8) members shall constitute a quorum for conducting business.
 - (5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.
 - (6) Vacancies shall be filled in the same manner as the original appointment.
 - (7) The chair and vice chair of the commission shall be appointed by the Governor.
 - (8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.
 - (9) The duties and responsibilities of the commission shall be to:

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- (a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;
- (b) Report on the progress the Commonwealth has made annually toward achieving the goals in KRS 164.6013 through its agreed-upon benchmarks. In the setting of benchmarks the commission shall consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include but not be limited to representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include but are not limited to the following:
 - 1. Kentucky companies modernizing to become more technologically innovative and globally competitive;
 - 2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private funds;
 - 3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;
 - 4. High-technology sectors and companies moving to and operating in the state;

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5. Patents filed for technology or knowledge-based commercial products, processes, or services;
 6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses;
 7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers; and
 8. Monitoring reports indicating progress made by the Kentucky Innovation Act investments as reported by the Department of ~~Innovation and~~ Commercialization and Innovation~~[for a Knowledge Based Economy]~~ and the Council on Postsecondary Education;
- (c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth; and
- (d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and knowledge transfer, and reporting on the programs and initiatives set forth in KRS 164.6019 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to 154.12-315.
- (10) The support staff for the commission shall be from the office of the state budget director.

Section 8. KRS 164.6017 is amended to read as follows:

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- (1) The Council on Postsecondary Education shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 164.6019 to 164.6041, including but not limited to:
 - (a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and
 - (b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to general fund appropriations of the Commonwealth, grants or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and
 - (c) Notwithstanding the provisions in paragraph (a) of this subsection, the commissioner of the Department of ~~Innovation and Commercialization~~ **and Innovation** ~~[for a Knowledge Based Economy]~~ shall approve the contracts issued by the Council on Postsecondary Education regarding the structure of programs and funding levels in those programs administered by a science and technology organization and created in KRS 154.12-320, 164.6021, 164.6029, and 164.6037.
- (2) The council may expend money in the funds created in KRS 164.6019, 164.6027, and 164.6035 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 164.6019 to 164.6041. It is the intent of the General Assembly that the funds created in KRS 164.6019, 164.6027, and 164.6035 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that the first priority of expenditures of any excess revenues generated from the funds created in KRS 164.6019, 164.6027, and 164.6035 is to replenish general fund appropriations for those same purposes.

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- (3) The council shall contract with a science and technology organization to administer the programs created in KRS 164.6021, 164.6029, and 164.6037. The council shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the programs created in KRS 164.6021, 164.6029, and 164.6037.
- (4) No member of the council or the science and technology organization or other administering entity, or their employees or outside experts or their immediate family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.
- (5) The council shall submit an annual report prior to October 15 to the Kentucky Innovation Commission, the Governor, and the General Assembly detailing its work related to the programs created in KRS 164.6021, 164.6029, and 164.6037. The annual report shall be coordinated with the monitoring report by the Department of ~~Innovation and~~ Commercialization and Innovation ~~[for a Knowledge Based Economy]~~ indicating progress made through investments, and shall include but not be limited to reporting on the progress made in achieving each program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.
- (6) All records related to the administration of the programs created in KRS 164.6021, 164.6029, and 164.6037 shall be deemed property of the council and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884. Any

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research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.

Section 9. KRS 216.265 is amended to read as follows:

- (1) The Kentucky e-Health Network Board is created and is attached to the Cabinet for Health and Family Services for administrative and technical support purposes.
- (2) The board shall consist of the following voting members:
 - (a) President, or a designee, of the University of Kentucky, who shall serve as co-chair of the board;
 - (b) President, or a designee, of the University of Louisville, who shall serve as co-chair of the board;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Commissioner, or a designee, of the Department for Medicaid Services;
 - (e) Executive director, or a designee, of the Commonwealth Office of Technology; and
 - (f) Nine (9) at-large members appointed by the Governor as follows:
 1. One (1) member engaged in the business of large-scale e-strategy and computer information technology;
 2. One (1) member engaged in the business of health insurance who is employed by a company that has its headquarters in Kentucky;
 3. Two (2) members from a list of four (4) individuals recommended by the Kentucky Hospital Association, one (1) representing rural hospitals, and one (1) representing urban hospitals;

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4. Two (2) physicians actively engaged in the practice of medicine in the Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 5. One (1) member from a company with at least one thousand (1,000) employees selected from a list of four (4) individuals submitted by the Associated Industries of Kentucky;
 6. One (1) member with experience as a physician practice manager; and
 7. One (1) member at large.
- (3) The board shall consist of the following ex officio members who may vote, but shall not be counted toward a quorum:
- (a) Commissioner, or a designee, of the Department of ~~Innovation and~~ Commercialization and Innovation ~~for a Knowledge Based Economy~~;
 - (b) President, or a designee, of the Council on Postsecondary Education;
 - (c) Secretary, or a designee, of the Cabinet for Health and Family Services;
 - (d) Executive director, or a designee, of the Office of Insurance;
 - (e) Two (2) members of the Senate who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the President of the Senate; and
 - (f) Two (2) members of the House of Representatives who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the Speaker of the House.
- (4) Members of the board shall serve a term of four (4) years and may serve two (2) consecutive terms.

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- (5) At the end of a term, a member of the board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the board who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms. Members designated in subsection (2)(a) to (e) of this section and members designated in subsection (3) of this section shall serve on the board only while holding their respective titles.
- (6) A majority of the full membership of the board shall constitute a quorum.
- (7) The board may employ staff or contract with consultants necessary for the performance of the duties of the board, subject to the appropriation of funds.
- (8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (9) Members of the board and all committees, except the advisory group created in KRS 216.267(2), shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements. The board shall meet at least monthly.
- (10) The board may appoint committees or subcommittees with the charge of investigating and making recommendations to the board on specific aspects of the Ke-HN, including but not limited to evidence-based clinical decision support, security of protected information, electronic data interchange, and clinical practice software packages, including the feasibility of developing a software purchasing alliance to decrease the cost of software and tax incentives to encourage members of the

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network to purchase software deemed by the board to meet the standards of KRS 216.267. The board may appoint the following committees:

- (a) Clinical Decision Support Committee;
- (b) Privacy and Security of Protected Health Information Committee;
- (c) Electronic Data Interchange Committee; and
- (d) Clinical Software Review Committee.

(11) The members of committees or subcommittees appointed by the board do not need to be members of the board. The chairs of committees or subcommittees shall be appointed by the board. The frequency of committee or subcommittee meetings shall be established by the board.

(12) The Clinical Decision Support Committee membership shall include at least the following members:

- (a) One (1) physician with expertise in health informatics;
- (b) Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
- (c) One (1) representative of a rural hospital and one (1) representative of an urban hospital;
- (d) One (1) pharmacist;
- (e) One (1) representative engaged in the business of health care information technology;
- (f) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and

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- (g) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated.

(13) The Privacy and Security of Protected Health Information Committee shall include at least the following members:

- (a) One (1) physician actively engaged in the practice of medicine in this Commonwealth;
- (b) Two (2) members with expertise in HIPAA regulations;
- (c) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
- (d) One (1) member who serves as a computer information officer within the health care industry;
- (e) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
- (f) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and
- (g) One (1) representative of a hospital.

(14) The Electronic Data Interchange Committee shall include at least the following members:

- (a) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
- (b) Two (2) members engaged in the business of health insurance who are recommended by the Kentucky Association of Health Plans, Incorporated;
- (c) Chief information officer, or a designee, of the Office of Technology within the Cabinet for Health and Family Services;

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- (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
- (e) One (1) representative of a hospital.

(15) The Clinical Software Review Committee shall include at least the following members:

- (a) One (1) member from a company that develops computer software for physician practices;
- (b) One (1) member engaged in the business of large-scale e-strategy and computer information technology;
- (c) Three (3) physicians, with one (1) having experience in electronic information technology;
- (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
- (e) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated or employed by a company which has its headquarters in Kentucky; and
- (f) One (1) representative of a hospital.

(16) The Governor of the Commonwealth of Kentucky may reorganize the Kentucky e-Health Network Board to include the Kentucky Telehealth Board and to reorganize the Telehealth Board under the Cabinet for Health and Family Services. If the Governor deems it appropriate, the reorganization shall create a new Telehealth Committee of the Ke-HN board with the membership and responsibilities as described under KRS 11.550 and shall be subject to confirmation by the General Assembly under the requirements of KRS 12.028.

Section 10. KRS 216.267 is amended to read as follows:

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- (1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.
- (2) The board shall:
 - (a) Exercise all of the administrative functions of the board;
 - (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;
 - (c) Review models for an electronic health network;
 - (d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:
 1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health care providers across the state, and support health care provider education related to the identification and treatment of rare and unusual diseases. The model chosen may be implemented in phases, as determined by the board;
 2. Projected costs of the network, indicating those which would be allocated to state government, health care providers, insurers, or others;

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3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
 4. Procedures intended to secure protected health information in accordance with HIPAA;
 5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
 6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
 7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;
- (e) Receive comments from the advisory group created in paragraph (b) of this subsection;
 - (f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;
 - (g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;
 - (h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:
 1. Developing any central interchange, including any central server and software;

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2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;
 3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
 4. Performing an outcomes assessment of the benefits achieved by the network;
- (i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:
1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
 2. Medical lexicon for administrative billing and clinical purposes;
 3. Procedure and billing codes; and
 4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;
- (j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;
- (k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;
- (l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;

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- (m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;
- (n) Implement educational efforts about the Ke-HN;
- (o) Develop incentives for providers and payors to use the Ke-HN;
- (p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;
- (q) Facilitate the development of private and public partnerships to build the Ke-HN;
- (r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;
- (s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;
- (t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (v) Stimulate the development of state and local population health information capacities;
- (w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;

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- (x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;
 - (y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of ~~Innovation and~~ Commercialization and Innovation~~for a Knowledge Based Economy~~, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and
 - (z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.
- (3) The board may:
- (a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;
 - (b) Contract, in accordance with KRS Chapter 45A, with an independent third party for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;
 - (c) Award grants to health care providers and payors to implement projects related to health informatics, with highest priority given to health care providers and payors that serve rural and inner-city areas of this Commonwealth; and

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- (d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement.
- (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:
 - (a) Automatic drug-drug interaction and allergy alerts;
 - (b) Automatic preventive medicine alerts;
 - (c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;
 - (d) Disease management;
 - (e) Disease surveillance and reporting;
 - (f) Educational offerings for health care providers;
 - (g) Health alert system and other applications related to homeland security;
 - (h) Links to drug formularies and cost information;
 - (i) Links to evidence-based medical practice;
 - (j) Links to patient educational materials;
 - (k) Medical record information transfer to other providers with the patient's consent;
 - (l) Physician order entry;
 - (m) Prescription drug tracking;

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- (n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
- (o) Secured electronic consultations between providers and patients;
- (p) A single-source insurance credentialing system for health care providers; and
- (q) The following transactions covered by HIPAA:
 - 1. Electronic health care claims submission;
 - 2. Electronic payment;
 - 3. Coordination of benefits;
 - 4. Health care claim status;
 - 5. Enrollment and disenrollment in a health plan;
 - 6. Eligibility for a health plan;
 - 7. Health plan premium payments;
 - 8. Referral certification and authorization;
 - 9. First report of injury; and
 - 10. Health claims attachments."

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Part XXII - Motor Fuels Tax

BRANCH BUDGET

The State/Executive Branch Budget Bill contains no provisions relating to Part XXII, Motor Fuels Tax.

HOUSE REPORT

The House adds a Part XXII, Motor Fuels Tax, language provision as follows:

"Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

- (1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the department in a manner and form prescribed by the department, supported by proper evidence which in the sole judgment of the department substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the department. The department may make any investigation deemed necessary to establish the bona fide claim of the loss;
- (2) "Gasoline dealer" or "special fuels dealer" means any person who is:
 - (a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;
 - (b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;
 - (c) Distributing gasoline from bulk storage in this state;
 - (d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;
 - (e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the department, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or
 - (f) Regularly exporting gasoline or special fuels;
- (3) "Department" means the Department of Revenue;

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- (4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Elliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;
- (b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;
- (c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;
- (d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;
- (5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:
 - (a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of

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the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the department; and

- (b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;
- (6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;
- (7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;
- (8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;
- (9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;
- (10) "Average wholesale price" shall mean:
 - (a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents (\$0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Department of Revenue from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the department;
 - (b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and thirty-four cents (\$1.34)~~twenty-two cents (\$1.22)~~ per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents (\$1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal

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year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

- (11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;
- (12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;
- (13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;
- (14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and
- (15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance."

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Part XXIII - Phase II Amnesty Payment Program

BRANCH

The Branch Budget Bill contains no provision concerning the Phase II Amnesty Payment Program.

HOUSE

The House adds Part XXIII, Phase II Amnesty Payment Program.

"PHASE II AMNESTY PAYMENT PROGRAM

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 248.480 is amended to read as follows:

- (1) As used in this section:
 - (a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;
 - (b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;
 - (c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and
 - (d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.
- (2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.
- (3) The corporation shall be directed by a board of directors, which shall include:
 - (a) The Governor, who shall serve as chair of the corporation;

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- (b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;
 - (c) The Attorney General, who shall serve as secretary of the corporation;
 - (d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;
 - (e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;
 - (f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;
 - (g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and
 - (h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.
- (4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.
- (5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.
- (6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the National Tobacco Growers Settlement Trust.
- (7) The corporation's duties shall include, but not be limited to:
- (a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;
 - (b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;

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- (c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;
 - (d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;
 - (e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;
 - (f) Submitting information required by the trustee of the settlement trust;
 - (g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions;
 - (h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section;
 - (i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary; ~~and~~
 - (j) Provide for the distribution of state funds appropriated in 2005 Ky. Acts ch. 173, Parts I and II to the beneficiaries of the National Tobacco Growers Settlement Trust in a manner consistent with this section; and
 - (k) Provide for the distribution of one-time payments under the amnesty compensation program described in subsection (8) of this section.
- (8) (a) The corporation shall establish an amnesty compensation program for tobacco quota owners who did not receive payments under the plan adopted by the corporation on March 22, 2004. The program shall grant one-time payments to eligible tobacco quota owners, as defined in the March 22, 2004, plan, who did not attain certification status with the corporation in 2004. Tobacco quota owners who attained certification with the corporation in 2004 shall not be eligible for the amnesty compensation payments for any 2003 basic quota pounds that were certified previously by the corporation. The program developed by the corporation shall:
- 1. Determine those quota owners not certified previously under the March 22, 2004, plan and institute an application process for those noncertified quota owners;
 - 2. Make a one-time payment to newly certified quota owners under the amnesty compensation program at the same rate per pound as those quota owners who were certified previously under the March 22, 2004, plan provisions; and
 - 3. Limit the application process to ninety (90) days, with an ending date no later than October 31, 2006, and make payments to certified beneficiaries within ninety (90) days after the application process has ended.
- (b) Funds required under the amnesty compensation program, including administrative costs of the plan, shall be deemed a necessary governmental expense and paid by the State Treasurer upon approval of the corporation.
- (c) The provisions of this subsection shall expire on June 30, 2007.

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(9) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities."

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Part XXIV - Evaluation of Economic Development Issues

BRANCH

The BRANCH contained no provision relating to the Evaluation of Economic Development Issues.

HOUSE REPORT

The House Report adds Part XXIV, Evaluation of Economic Development Issues as follows:

"EVALUATION OF ECONOMIC DEVELOPMENT ISSUES

Notwithstanding KRS 48.310, the following statute is created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

- (1) The staff of the Legislative Research Commission is responsible for providing services to the General Assembly and the Legislative Research Commission, including fiscal analysis of legislation and proposed legislation, economic studies and analysis, and the staffing of budget and revenue committees. To facilitate the provision of these services, the staff of the Legislative Research Commission requires information and data in the possession of other agencies and instrumentalities of state government.
- (2) Notwithstanding KRS 131.190, any provisions of KRS Chapter 154, or any other provision of the Kentucky Revised Statutes to the contrary, the Department of Revenue and the Cabinet for Economic Development shall provide, upon request of the director of the Legislative Research Commission, any information necessary for the Legislative Research Commission staff to perform its duties. The Department of Revenue and the Cabinet for Economic Development shall provide the requested information in a timely manner, and shall provide any assistance needed to facilitate the review, copying, or inspection of any

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Part XXIV - Evaluation of Economic Development Issues

public or confidential information requested, whether written or electronic. The information shall be used by Legislative Research Commission staff for official purposes only.

(3) Information that shall be provided upon request includes:

(a) Any information acquired from any records of the Department of Revenue, excluding information received by the department from the Internal Revenue Service, whether such information is classified as confidential or public; and

(b) Any information acquired from any records of the Cabinet for Economic Development, including individual company information, whether such information is classified as confidential or public.

(4) The Department of Revenue and Cabinet for Economic Development shall allow the staff of the Legislative Research Commission to interview its employees during normal working hours, without any restrictions imposed by the Department of Revenue or the Cabinet for Economic Development, for the purpose of obtaining information pertinent to the responsibilities set forth in subsection (1) of this section.

(5) The contents of interviews conducted by staff of the Legislative Research Commission, or any information supplied at the request of the director of the Legislative Research Commission or Legislative Research Commission staff which is not specifically restricted by KRS 61.878 may be classified as confidential by the Department of Revenue or the Economic Development Cabinet and, if so classified, shall not be subject to release under KRS 61.872. The provisions of this subsection shall not apply to reports or documents routinely maintained by the Department of Revenue or the Cabinet for Economic Development subject to release under KRS 61.872.

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- (6) If the information sought by the director of the Legislative Research Commission is required by law to be confidential the staff of the Legislative Research Commission shall have access to the information, but shall maintain the confidentiality of the information. The staff of the Legislative Research Commission shall be subject to the same penalties as the custodian of the information for improper dissemination of such information.
- (7) The provisions of KRS 7.320(3) shall apply to enforce the provisions of this section.

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Part XXV - Heavy Equipment Property Tax

BRANCH BUDGET

The State/Executive Branch Budget Bill contains no provisions relating to Heavy Equipment Property Tax.

HOUSE REPORT

The House adds Part XXV, Heavy Equipment Property Tax, as follows:

"Notwithstanding KRS 48.310, the following statutes are created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Part:

- (1) "Heavy equipment property" means rental property of an industry that is described under code 532412 or 532490 of the North American Industry Classification System United States Manual published by Convergence Working Group;
- (2) "Rental company" means a person or company that offers heavy equipment property for rent on an hourly, daily, weekly, or monthly basis, for a rental term of twelve (12) months or less pursuant to a written agreement. In determining whether a rental agreement extends beyond twelve (12) months, the rental term shall be computed by adding all permitted or required extensions of the rental term set forth in the written agreement; and
- (3) "Lessee" means any person or business entity that rents or leases rental property from a rental company for his, her or its own use and not for rental to others.

SECTION 2. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

- (1) Every rental company may collect a property tax withholding fee equal to one percent (1%) of the amount charged for the rental of heavy equipment property in the Commonwealth. The property tax withholding fee shall be computed on the total amount the lessee is charged for the heavy equipment property, exclusive of sales tax, and shall not be included in the sales price in calculating the sales or use tax due under KRS Chapter 139.
- (2) The rental company may separately state the rental property withholding tax fee on the invoice or bill of sale.
- (3) The proceeds of the fee collected under subsection (1) of this section shall be maintained by the rental company in a separate account, and shall be used solely for the purpose of paying tangible personal property taxes levied by all taxing jurisdictions against the heavy equipment property.
- (4) The provisions of this section shall in no way relieve the rental company of the responsibility for paying the tangible personal property taxes due on heavy equipment property.
- (5) Any claim for refund or other remedy sought by a lessee relating to the property tax withholding fee collected pursuant to subsection (1) of this section shall be addressed with the rental company that collected the fee. The provisions of KRS

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Part XXV - Heavy Equipment Property Tax

Chapter 131 and any other provisions of the Kentucky Revised Statutes relating to the payment or refund of taxes or fees imposed by the state or any of its political subdivisions shall not apply to the fee imposed by subsection (1) of this section."

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Part XXVI - Legislative Oversight of Government Contracts

BRANCH BUDGET

The State/Executive Branch Budget Bill contains no provisions relating to Legislative Oversight of Government Contracts.

HOUSE REPORT

The House adds Part XXVI, Legislative Oversight of Government Contracts, as follows:

"Notwithstanding KRS 48.310, the following statutes are created to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

SECTION 1. A NEW SECTION OF KRS 45A.690 TO 45A.725 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any provision of KRS Chapter 45A to the contrary, this section shall apply to all state agencies that use the purchasing components of the Management and Reporting System (MARS) and the e-MARS.
- (2) For the purposes of this section, "contract" means any agreement or other legally binding document with a contracting body that contains any element of professional or nonprofessional service, including purchases combining both commodities and services.
- (3) In the case of any contract or personal service contract in an amount over forty thousand dollars (\$40,000) per contract year, the Government Contract Review Committee of the Legislative Research Commission shall be provided with the following information:
 - (a) Evidence comparing the cost of providing the service through the proposed contract or personal service contract to the cost of using state employees to provide the same service; and
 - (b) The plan for monitoring the contract or personal service contract, including:
 1. The name of the person who will be doing the monitoring;
 2. The method that will be used to accomplish the monitoring;
 3. The manner in which monitoring activities will be documented; and
 4. Adequate notice of the need for a personal service contract shall be given by the contracting body and shall include a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications. Price shall be included in the evaluation factors that determine the best qualified offeror.
- (4) The Government Contract Review Committee shall have the authority to audit contracts, personal service contracts, and memoranda of agreement that the committee has previously examined and found appropriate. An audit shall commence only after the committee has voted to approve an audit. The audit may include a review of:
 - (a) The amount paid under the contract, personal service contract, or memorandum of agreement;

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- (b) The quality of the work performed;
- (c) The adequacy of the monitoring approach used by the contracting body;
- (d) The degree of satisfaction of the contracting body; and
- (e) Other pertinent details as determined by the committee.
- (5) The committee shall develop a methodology for identifying contracts, personal service contracts, and memoranda of agreement to audit. The methodology may be included in a committee operations manual.
- (6) Contracts, personal service contracts, and memoranda of agreement that are identified as candidates for an audit shall be presented to the committee. No audit shall commence on identified contracts, personal service contracts, or memoranda of agreement until approved by a majority vote of the committee.
- (7) Audit reports may be included in the monthly meetings of the Government Contract Review Committee. Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his or her designee.

SECTION 2. A NEW SECTION OF KRS 45A.690 TO 45A.725 IS CREATED TO READ AS FOLLOWS:

- (1) The Finance and Administration Cabinet shall provide and make available to the Government Contract Review Committee and committee staff full electronic access to the cabinet's procurement database.
- (2) The database shall be searchable and shall permit the committee's staff to perform queries; to sort contracts, personal service contracts, and memoranda of agreement to generate reports; and to facilitate analyses based upon all electronic information including but not limited to:
 - (a) Dollar amounts regarding contracts, personal service contracts, and memoranda of agreement;
 - (b) Contract, personal service contract, and memorandum of agreement numbers;
 - (c) Types of contracts, personal service contracts, and memoranda of agreement;
 - (d) Contract, personal service contract, and memorandum of agreement usage by contracting body;
 - (e) Vendor number;
 - (f) Vendor name;
 - (g) Method of award;
 - (h) Renewals of contracts, personal service contracts, and memoranda of agreement;
 - (i) Modifications to contracts, personal service contracts, and memoranda of agreement;
 - (j) Contracts, personal service contracts, and memoranda of agreement with out-of-state vendors;
 - (k) Contracts, personal service contracts, and memoranda of agreement awarded within a certain time period;
 - (l) The not-to-exceed amount on the proof of necessity; and

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(m) The length of each contract, personal service contract, and memorandum of agreement.

(3) The cabinet shall work in conjunction with the committee and the committee's staff to institute this section.

(4) The requirements of this section shall be accomplished by July 1, 2007.

SECTION 3. A NEW SECTION OF KRS 45A.690 TO 45A.725 IS CREATED TO READ AS FOLLOWS:

(1) The Finance and Administration Cabinet shall create a Web site designated and maintained for the purpose of giving public notice on the following information from the Management and Reporting System (MARS) and the e-MARS:

(a) Information on all contracts and personal service contracts to be awarded by any contracting body and all contracts and personal service contracts currently open for bid;

(b) Information on all contract and personal service contract awards. The information shall be posted no later than thirty (30) days after each contract and personal service contract is awarded and shall include:

1. The name and location of the recipient of each contract and personal service contract;

2. The awarding contracting body;

3. The amount and duration of each contract and personal service contract; and

4. A brief description of the work to be done under each contract and personal service contract;

(c) Information on all contract and personal service contract renewals. The information shall be posted no later than thirty (30) days after each contract and personal service contract renewal and shall include:

1. The name and location of the recipient of each contract and personal service contract renewal;

2. The renewing contracting body;

3. The amount and duration of each renewed contract and personal service contract;

4. A brief description of the work to be done under each renewed contract and personal service contract;

5. The length of time that the vendor has had each contract and personal service contract; and

6. The number of times each contract and personal service contract has been renewed with the vendor;

(d) Whether an awarded contract or personal service contract was awarded as a sole source, not feasible to bid, or emergency contract; and

(e) A list of contracting bodies with procurement authority from the Finance and Administration Cabinet.

(2) The Web site required by this section shall:

(a) Be user-friendly and easy to search;

(b) Provide on-line access to all documentation and forms necessary to respond to requests for proposals or invitations to bid for contracts and personal service contracts;

(c) Be widely advertised to potential vendors and to be the general public; and

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- (d) Be updated and maintained on a timely basis and include all contracts and personal service contracts awarded during the previous twelve (12) months.
- (3) The Finance and Administration Cabinet shall maintain records on each contract where an emergency is declared to exist and each situation where sole source or nonfeasibility of competition is asserted by a governmental body. The cabinet shall document adequate justification for granting the exemptions and shall provide full reports on petitions for exemptions to the Government Contract Review Committee as described in subsection (4) of this section.
- (4) The following information regarding emergency, nonfeasibility of competition, and sole source contracts shall be reported biennially by the Finance and Administration Cabinet for each exemption category to the Government Contract Review Committee:

 - (a) Number of contracts awarded;
 - (b) The recipients of each contract;
 - (c) The contract number;
 - (d) The total number and dollar amount of each contract;
 - (e) The total number and dollar amount of modifications per contract;
 - (f) The total amount actually expended per contract;
 - (g) The no-to-exceed amounts of each contract as stated on the proof of necessity form, if applicable; and
 - (h) Any services acquired through the contract.
- (5) The requirements stated in subsection (4) of this section shall be:

 - (a) For the preceding six (6) months;
 - (b) Submitted electronically;
 - (c) Categorized by governmental body;
 - (d) Coordinated, complied, and submitted by the Finance and Administration Cabinet; and
 - (e) Submitted to the Government Contract Review Committee not later than March 1 and September 1, respectively, with the first report to be submitted to the committee by March 1, 2007.
- (6) If the Government Contract Review Committee determines that any governmental body has an unusually high number of sole source, nonfeasibility, or emergency contracts, the committee may require additional information on those contracts from the Finance and Administration Cabinet and the governmental body issuing the contracts.
- (7) The secretary of the Finance and Administration Cabinet shall examine all requests for a sole source, nonfeasibility, or emergency exemption to assure that only those cases specifically permitted by statute and rigorously documented shall be exempt from the competitive award of contracts.

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(8) No contract for which a sole source, nonfeasibility, or emergency exemption has been approved shall be renewed more than two (2) consecutive times, unless the contract has been offered for competitive bid or negotiation."

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Part XXVII - Voluntary Assignment of MSA Tobacco Escrow Payments

BRANCH

The Branch Budget Bill contains no provision relating to Voluntary Assignment of MSA Tobacco Escrow Payments.

HOUSE

The House adds Part XXVII, Voluntary Assignment of MSA Tobacco Escrow Payments.

"VOLUNTARY ASSIGNMENT OF MSA TOBACCO ESCROW PAYMENTS

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 131.602 is amended to read as follows:

- (1) Any tobacco product manufacturer selling cigarettes to consumers within this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, after June 30, 2000, shall do one (1) of the following:
 - (a) Become a participating manufacturer, as that term is defined in section II(jj) of the master settlement agreement, and generally perform its financial obligations under the master settlement agreement; or
 - (b) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as such amounts are adjusted for inflation:
 1. For 2000: \$0.0104712 per unit sold after June 30, 2000;
 2. For each of 2001 and 2002: \$0.0136125 per unit sold;
 3. For each of 2003 through 2006: \$0.0167539 per unit sold; and
 4. For 2007 and each year thereafter: \$0.0188482 per unit sold.
- (2) A tobacco product manufacturer that places funds into escrow pursuant to subsection (1)(b) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:
 - (a) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by Kentucky or any releasing party located or residing in Kentucky. Funds shall be released from escrow under this paragraph in the order

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in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;

- (b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the master settlement agreement payments, as determined pursuant to section IX(i) of that agreement, including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or
- (c) To the extent not released from escrow under paragraph (a) or (b) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

- (3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (1)(b) of this section shall annually certify to the Attorney General that it is in compliance with subsections (1)(b) and (2) of this section. The Attorney General may bring a civil action on behalf of Kentucky against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

- (a) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of subsection (1)(b) or (2) of this section, may impose a civil penalty, to be paid to the general fund of Kentucky, in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;
- (b) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of subsection (1)(b) or (2) of this section, may impose a civil penalty, to be paid to the general fund of Kentucky, in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and
- (c) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within Kentucky, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

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- (4) Notwithstanding the provisions of subsection (2) of this section, a tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (1)(b) of this section may make an irrevocable assignment of its interest in the funds to the benefit of the Commonwealth of Kentucky. Such assignment shall be permanent and apply to all funds in the subject escrow account or that may subsequently come into such account, including those deposited into the escrow account prior to the assignment being executed, those deposited into the escrow account after the assignment is executed, and interest or other appreciation on such funds. The tobacco product manufacturer, the Attorney General, and the financial institution where the escrow account is maintained may make such amendments to the qualified escrow account agreement as may be necessary to effectuate an assignment of rights executed pursuant to this subsection or a withdrawal of funds from the escrow account pursuant to subsection (5) of this section. An assignment of rights executed pursuant to this subsection shall be in writing, signed by a duly authorized representative of the tobacco product manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the escrow account is maintained.
- (5) Notwithstanding the provisions of subsection (2) of this section, any escrow funds assigned to the Commonwealth pursuant to subsection (4) of this section shall be withdrawn by the Commonwealth upon request by the Treasurer of the Commonwealth and approval of the Attorney General. Any funds withdrawn pursuant to this subsection shall be deposited in the general fund and shall be calculated on a dollar-for-dollar basis as a credit against any judgment or settlement described in subsection (2)(a) of this section which may be obtained against the tobacco product manufacturer who has assigned the funds in the subject escrow account. Nothing in this subsection or in subsection (4) of this section shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations the manufacturer may have pursuant to this chapter."

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